TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, ~~1958~~ 1959 / 1960

No. ~~188~~ 56 /

JUNIUS IRVING SCALES, PETITIONER,

vs.

UNITED STATES OF AMERICA.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PETITION FOR CERTIORARI FILED NOVEMBER 3, 1958
CERTIORARI GRANTED DECEMBER 15, 1958

IND. TO APPENDIX FOR

DEFENDANT-APPELLANT

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APPENDIX TO THE BRIEF OF DEFENDANT APPELLANT

United States Court of Appeals

FOR THE FOURTH CIRCUIT

No. 7637

JUNIUS IRVING SCALES, APPELLANT,

versus

UNITED STATES OF AMERICA, APPELLEE

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
(Bryan, J.)

THE DEFENDANT-APPELLANT, JUNIUS IRVING SCALES, PRINTS WITH HIS BRIEF, PURSUANT TO RULES, THE FOLLOWING PORTIONS OF THE RECORD.

INDICTMENT

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	CRIMINAL NO.
vs.	U. S. C., Title 18, Section 2385—Membership in an organization which teaches and advocates the overthrow of the Government by force and violence.
JUNIUS IRVING SCALES	

INDICTMENT

(Filed November 18, 1954)

THE GRAND JURY CHARGES:

(1) That during the entire period from in or about January, 1946, and continuously thereafter, up to and including the date of the filing of this indictment, the Communist Party of the United States of America has at all times been a society, group, and assembly of persons who teach and advocate the overthrow and destruction of the Government of the United States by force and violence as speedily as circumstances would permit;

(2) That from in or about January, 1946, and continuously thereafter, up to and including the date of the filing of this indictment, in the Middle District of North Carolina and elsewhere, Junius Irving Scales, the defendant herein, has been a member of said Communist Party of the United States of America, the defendant well knowing during all of said period that said Communist Party of the United States of America was and is a society, group, and assembly of persons who teach and advocate the overthrow and destruction of the Government of the United States by force and violence as speedily as circumstances would permit, and said defendant intending to bring about such overthrow by force and violence as speedily as circumstances would permit.

In violation of Section 2385, Title 18, United States Code.

A True Bill,
/s/ W. R. Graham, Foreman

/s/ Edwin M. Stanley
United States Attorney

EXTRACTS FROM TRANSCRIPT OF RECORD BEFORE HONORABLE ALBERT V. BRYAN

(Page numbering referred to follows typewritten transcript.)

* * *

(429)

John Lautner, witness for the Government, being first duly sworn, testified:

DIRECT EXAMINATION BY MR. KEENEY

Q. Mr. Lautner, again I ask you for a yes or no answer. During the time you were a member of the Communist Party were you taught what party members should do in order to achieve this goal of the Party, this ultimate goal of the Party?

A. In, during my membership in the Communist Party, on all levels, the Party's membership were always urged to carry out their obligations, their day-to-day activities, their assignments in the day-to-day work of the Party in order to bring closer to realization of the final aims of the Party.

* * *

(690)

Barbara Hartle, witness for the Government, being first duly sworn, testified:

DIRECT EXAMINATION BY MR. WOERHEIDE

Q. This is a preliminary question, Your Honor.

Do you recall propaganda put out by the Communist Party during the Korean War period about the waging of germ warfare by American soldiers in Korea?

A. Yes, I do.

Q. What was that propaganda?

A. The propaganda was that the American armed forces are using bacteriological warfare in Korea.

Q. Do you recall any propaganda regarding bombing raids against civilian populations?

A. Yes.

Q. What was that propaganda?

A. It was the propaganda that the Air Force was not trying to hit the military targets, but was trying to dis-
(691)
seminate the population of North Korea.

Q. What means, if you know, Mrs. Hartle, were used by the Communist Party during the war to disseminate this type of propaganda?

A. A number of means were used. Articles appeared in the Communist Party press, The People's World, the Daily Worker, Political Affairs, and other periodicals, in magazines, and were circulated, leaflets were issued by the Communist Party containing such points, and those points, speeches were made at meetings held by the Communist Party, where those things were said, those things were said in conferences by Communists and in trade union and mass organizations by Communists.

Q. In this connection did the Communist Party organize any letter-writing campaigns?

A. Yes. In that connection letter-writing campaigns were organized to the President of the United States, the State Department, and to Senators and Representatives of the United States Congress among others.

Q. Were members of the Communist Party told what to say in these letters?

A. Yes. On many occasions the postcards were printed by the Party Office or Section leadership in, on a mimeographed, so that only a signature was necessary in order to send it in. The political line of the Party to oppose the
(692)
Korean War contained the points that should be hammered home and brought home in opposing the war.

* * *

EXTRACTS FROM RECORD

(853)

CROSS EXAMINATION BY MR. TAYLOR

Q. Now, Mrs. Hartle, have you now described to your best recollection the various activities that you engaged in while a member of the Communist Party up to 1950 before going underground?

A. Well, those are some of the activities that I can recall without—at the moment; yes.

Q. Well, I will ask you this, you have testified to leaflets, periodicals, mass meetings, conferences on issues, letter writing campaigns, picnics, celebrations, picket lines, demonstrations, social affairs, Party classes and Party schools, fund-raising, recruiting, organization, having resolutions passed by trade unions, and other organizations, political campaigns, mass and front organizations, making
(854)
public speeches, sending delegations to legislatures, street meetings, organizing the Progressive Party—can you think of anything, any other type of activities that you engaged in?

A. Well—

Q. Or does that pretty well cover it?

A. Well, there were the building of organizations, I think is not covered under most—and front working in them, the building of organizations like the Labor Youth League, and the National Negro Labor Council.

Q. Yes.

A. That is not covered, and the building of an Underground apparatus was not mentioned there.

* * *

Q. I was meaning to exclude that from the testimony. I will come to that in a minute—up to the point when the Underground was started and was planned. We have now
(855)
covered the main activities that you have engaged in?

A. I think I should in all fairness state that during that time one of the activities of the Communist Party was recruiting.

Q. I mentioned that.

A. As a general activity in the concentration industries and in general.

Q. Yes.

A. Inasmuch as quite a lot of action and work has to go into recruiting into the Party.

Q. Yes. Mrs. Hartle, I included that in my question, and now I want to ask you this, are these the activities that you engaged in while you were being what you described on direct examination as a professional revolutionary?

A. Yes.

Q. By the way, were you told by your Party superiors that you were professional revolutionary, or did you come to that conclusion independently?

A. I was told that by my Party superior.

* * *

(860)

Q. Now, Mrs. Hartle, did you have any other purposes of your own in agreeing to go into the Underground?

A. Yes.

Q. Was one of those purposes that you were tired of Communist Party activities and welcomed the chance to get away from them?

A. Yes.

* * *

(866)

Q. Well, Mrs. Hartle, I'd like to read you another paragraph from your testimony before the Un-American Activities Committee given at the same time, also June 14, and beginning on the same page, 6058, immediately following where I stopped reading the preceding passage, your testimony continues:

Then when I was underground I had time to myself

(867)

and I took the opportunity to resume reading of literary classics which I was very interested in throughout my life, and I found that by reading that kind of material again my mind became more settled

down and I began to feel better, my health got better, I also started doing sewing and crocheting and things that I had no time for in the Communist Party, and I began to enjoy having a life somewhat ordered and with some semblance of peace about it.

A. Well, that doesn't refer to Tacoma. That refers to my life in the Underground.

Q. Well, you—that is generally accurate about your life in the Undeground then?

A. Well, it is more so as I got further away from Seattle and was able to operate more openly and live a more normal life, but it is not true of Tacoma.

* * *

Ralph C. Clontz, Jr., witness for the Government, being first duly sworn, testified:
(1132)

DIRECT EXAMINATION BY MR. GAVIN

Q. Mr. Clontz, I hand you what has been marked for identification as Government's Exhibit 62, and ask if you know what that pamphlet is?

A. That is a publication called, a newspaper, by the defendant, The Textile Workers' Voice.

* * *

(1133)

Q. Will you turn, please, to the third page and read the article entitled The Atlantic Pact.

(No answer.)

* * *

(1134)

THE COURT: Well, look at this one and see if it is similar to or unlike the one that was handed to you, if that is a fact.
(1135)

* * *

THE WITNESS: If I may examine it, I think I can.

Yes, I have had one precisely like this one from the defendant.

BY MR. GAVIN:

Q. Will you read that article, please, sir?

A. This is an article on—

Q. Just one moment, Mr. Clontz. You said that is issued by the Communist Party of North Carolina?

A. That was at that time issued by the Communist Party, North Carolina.

Q. All right, sir.

A. This is an article titled The Atlantic Pact.

"The United States and eleven other countries have signed a treaty called The Atlantic Pact. Truman, Acheson, and the big-money newspapers are making a lot of noise about it and claiming the treaty will preserve peace and 'protect' the world from Soviet Russia. But what does this treaty really mean? It means that the Truman Government plans to use American money and guns and some day American soldiers to hold down the working people of the whole world. If the working class wins an election in France,

(1136)

or Italy, they will say Russia did it and start shooting. If the working people in any country that signed the treaty go on a strike for a decent living, they will say Russia did it.

"Our Wall Street Government will send money and guns to the big bosses of other countries to put down the working people. This treaty is the twin brother of the Taft-Hartley Act but worse. T-H uses police, soldiers and courts against American workers. The Atlantic Pact wants to use atom bombs against the workers of the whole world. They try to cover it up by saying the Soviet Union wants war. This can't be true because they have no capitalists who can profit from a war, as in our country.

"Everyone knows workers don't want to fight and die. The Russians lost fifteen million people in World War II. About four times as many people as live in all North Carolina. They have a lot of peaceful

building to do. They want peace and trade with the whole world. They don't have any unemployment and don't need a war to give people jobs. Their wages are going up and their prices are going down, and they want it to stay that way.

(1137)

"Most of the people of Europe feel the same way. They won't fight for Wall Street: They want peace, jobs and a decent living. Don't let the newspapers fool you. Honest working people including Communists want peace. It is the Wall Street crooks that want war.

"Write to Senators Hoey and Graham in Washington and tell them to vote this war pact down."

MR. SMITH: If Your Honor please, the defendant would move to strike as irrelevant to any issues in this case, as prejudicial—

THE COURT: How is that relevant, Mr. Gavin?

MR. GAVIN: If Your Honor please, if it is published by the Communist Party of North Carolina of which the defendant is Chairman, the witness says that he has seen this, this exact—maybe not this one—but one exactly like it; it is directly linked to the defendant and it carries with it what we call his language which incites to action. It is urging action either now or in the future. "Write to your Senators." It expresses the desire of the Communist Party, and we think the language itself is inciting to action.

* * *

(1138)

BY MR. GAVIN:

Q. Now, Mr. Clontz, I hand you what has been marked as Government's Exhibit No. 63 for identification, and ask if you will explain to the Court and the jury what that is, sir.

A. This is the May, 1950, issue of The Textile Workers' Voice. This is the identical document that I received from the defendant, Scales, through the mail on

June the 6th, 1950. This was addressed to me, Ralph C. Clontz, Jr., 2304 Irwin Road, City, and was mailed in Durham, North Carolina.

Q. Now, Mr. Clontz, I will ask you to read the article, Peace is the Crying Need, in that publication.
(1139)

MR. SMITH: If Your Honor please, I will object on the same ground. I think he has established its competency, that is, he is connected with the defendant, but I don't believe it's relevant to any issue in this case.

THE COURT: Have you read it?

MR. SMITH: I just looked at it, and if the Court would perhaps—

MR. GAVIN: Be glad to submit it to the Court.

THE COURT: Suppose I look at it. I cannot tell until I read it.

(The document was handed to the Court.)

(Counsel approached the bench.)

(At the Bench)

THE COURT: Now, Mr. Gavin, you suggest that this exhibit marked GX-63 should be submitted and you say why?

MR. GAVIN: Because in view of the—

THE COURT: Let the witness stand down.

MR. TAYLOR: Thank you.

(The witness stepped down.)

MR. GAVIN: If Your Honor please, the witness, Hartle, has previously testified that the Korean War was in effect or going on about the, '50 to '51, '2, and '3, and the Party at that time took a great interest; that was one of their projects, disseminating information about the war,

(1140)

urging everyone at that time, if you recall, to protest the war, to write and to wire to the President and to senators and the congressmen to do everything possible through handing out literature, to bring a halt to that war, and we say that is language within the meaning of the Yates decision either of inciting to action, which these pamphlets—first, Government's Exhibit No. 62, I believe, is it not, sir—yes, sir; carries the same type language.

You will note at the close of the article which the witness read there is this statement, "Don't let the newspapers fool you. Honest working people including Communists want peace. It is the Wall Street crooks that want war. Write to Senators Hoey and Graham in Washington and tell them to vote this war pact down."

Now this is during the cold war, immediately prior to the Korean War. This article was published in April of '49, and at that time we were building up to the cold war.

We say that that is language that tends to incite and urges action likewise. Government Exhibit 63 is in the same language.

MR. SMITH: Well, of course, it's not incitement. It's not language calculated to get people to do anything except write to their senators, which is their perfectly legal right to do and I call the Court's attention to the fact that Government's Exhibit 63, dated May, 1950, and I believe

(1141)

the Court took judicial notice that the Korean War did not start until June, 19-, June 5, 1950.

MR. TAYLOR: If I might add just one thing, Your Honor. It seems to me clear that what the Yates decision means is it must be incitement to action directed to the violent overthrow of the Government, and this is in no sense that. Under Mr. Gavin's theory, incitement to action of any kind by any organization; might come within the purview of the Smith Act.

Political parties all over the place urge people to write to congressmen. Must be action calculated to incite to the violent overthrow of the Government. This cannot possibly come in that category.

THE COURT: Well, it means that, of course, but would not other language of the stirring nature, even though legal in itself, if it were to bring about or was directed at bringing about an unlawful result, would not that be language inciting within the meaning of the Yates case?

MR. TAYLOR: If one assumes that the language is calculated to inc e people to take illegal action directed to violent overthrow of the Government, quite another picture.

THE COURT: No, no, I did not make it clear to you. If his end or his aim is illegal, even though his language may be perfectly legal, but inciting, would not that be—

MR. TAYLOR: Inciting to what, Your Honor?
(1142)

THE COURT: Inciting to the accomplishment of his aim.

MR. TAYLOR: It seems to me it has to be calculated to incite people to take action directed toward the violent overthrow of Government, and that writing to your congressmen in opposition to government policy cannot possibly constitute that kind of incitement, even however unpopular the issue may be, as it obviously is here. Writing to a congressman to take unpopular position on an issue cannot possibly be incitement to violent overthrow.

MR. WOERHEIDE: If I may inject myself, Your Honor, I believe the Court has made it clear that it need not be incitement until illegal action of it, until the testimony of the witness has made it clear that is regarded by the Party as struggle for the purpose of steeling the Party, building it up into a monolithic, well-disciplined organization which ultimately may be in the position to seize control of the Government.

This is preparatory action, but it is action, and it is directed towards the ultimate aims of the Party.

* * *

(1147)

THE COURT: Now, will these two papers conclude your evidence on this line?

MR. WOERHEIDE: Your Honor, we have—those are actually, would be preliminary to some other documents that we have, deal directly with the Korean War situation.

Now these documents relate to the period prior to the Korean War, the so-called cold war era, but the evidence in this case shows that the Korean War was one of the action campaigns of the Party. They disseminated a great deal of propaganda in connection with that war, and we are going to show what some of the propaganda was that they did disseminate and they disseminated down here in North Carolina.

(1148)

THE COURT: Well, what I was coming to was to let you go ahead with testimony along another line, and reserve decision on this point until we did have an opportunity to consider it in a broader background of the evidence, and perhaps more pointedly on the motion, and I wondered if mechanically you can go ahead, if I do reserve judgment at this time?

MR. WOERHEIDE: Your Honor, I believe that Mr. Gavin has some other testimony that he can go into.

THE COURT: Suppose we do that then.

MR. TAYLOR: And reserve decision?

THE COURT: And reserve decision.

* * *

(1152)

BY MR. GAVIN:

Q. Now, if Your Honor please, the Government will offer in evidence Exhibits No. 64, 65 and 66, which I understand you will reserve your—

THE COURT: Suppose you let me have them after they are marked.

MR. GAVIN: They have been marked.

MR. SMITH: Let the record show that the defendant objects to the same grounds as stated in connection with Nos. 62 and 63.

THE COURT: I will defer ruling at this time.

* * *

Charles Benson Childs, witness for the Government, being first duly sworn, testified:

DIRECT EXAMINATION BY MR. GAVIN

(1689)

Q. Now, did you see the defendant, Scales, in April of 1953 at the home of George Van Camp in Winston-Salem?

A. Well, I saw him at the, George and Betsy Van Camp's home in Winston-Salem in the spring of 1953. I went there to see George and Betsy Van Camp, and while I was there, I met Junius Scales, and we had a regular Communist Party Club meeting there, and at this meeting

(1690)

there was a discussion of the, Junius mentioned that in connection with the weaknesses of the Party, he said that in order to try to overcome this, we should adopt a program formulated by the Communists, Chinese Communists, which they call the Big Five Policy or Big Fivers, and in order to become a Big Fiver, these are the things we must do; attend all meetings, write letters to jailed comrades, pay dues

promptly, sell at least five pieces of literature to five different people, and then there was a fifth one which I do not recall.

* * *

(1764)

RE-DIRECT EXAMINATION BY MR. GAVIN

Q. All right, sir.

Now, Mr. Childs, as a member of the Communist Party enrolled in that organization by the defendant, Scales, and receiving guidance and instructions from him, what activities did you take part in?

A. May I use a note on that?

Q. Yes, sir.

* * *

(1765)

THE WITNESS: This list was prepared, I prepared yesterday, sir, among the things which I had been instructed to do was by Hank Farash, I was told not to go in a Negro community because I'd been going to the Negro community as I had been previously instructed to do. He told me not to go in a Negro community because he did not want me to be exposed.

Also he told me not to call the Food Tobacco and Agricultural Union Office there because again I might be exposed as being a Communist Party member.

Another thing was in connection with the printing—

(1766)

MR. SMITH: Mr. Gavin, are these things that the defendant instructed him to do? If not, I would object.

MR. GAVIN: Does Your Honor want to hear from me on that?

THE COURT: Yes.

MR. GAVIN: Your Honor, this is the question that has been asked before, I think of all Government witnesses. What activities did you take part in while you were in the

Party. I recall that Mr. Taylor asked that question of Lautner. He asked that of Mrs. Hartle I know. She gave a long list of the activities that she was engaged in. I think under the Yates case, why, we are called upon to show activity. The question was phrased, I think, so that he might describe his activities as a member of the Party in which he was enrolled by the defendant, and receiving guidance from the defendant and instructions from him.

Now it is—

THE COURT: Under the directions of someone in the Party having authority to direct; is that your position?

MR. GAVIN: Yes, sir.

THE COURT: And as I understand it, the witness said (1767)
these activities that he now is enumerating—

MR. GAVIN: Yes, sir.

THE COURT:—were pursued under the instruction and/or under the direction of Farash.

MR. GAVIN: That is correct.

THE COURT: Who was the organizer?

MR. GAVIN: Yes, sir.

THE COURT: I think that is admissible.

MR. GAVIN: And the defendant was the Chairman at that time.

BY MR. GAVIN:

Q. All right, sir, go ahead.

A. Warren Williams, who was with the City Committee of the Communist Party in Winston-Salem, told me to get the ingredients to make some mimeographing because Underground Party has to be able to make all types of things for itself. I was instructed to get the number of persons employed on day and night shifts at the Western Electric Plant.

It was suggested or discussed that I make plans for a collapsible mimeograph machine. It was told, I was told to send letters to Senators, or a Senator and the President calling for leniency for the Rosenbergs, and in connection with these letters I was to use a false name. I should try to get the editor of a newspaper to ask for a visa to Russia.

I was to try to get students legislature to pass an
(1768)
anti-McCarth, resolution. Contacted in Durham, told me to make an analysis of the Irwin Mills stockholders' report for the Textile Workers' Voice—I was also instructed to do research and write about the Wilmington riot.

I was told to get, by Hank, to get him a copy of our union contract. I was told not to sign a Clyde Brown petition. I was told to join a church where some people in my shop belonged in order to become closely associated with the people in the plant. I was told to struggle for Negro employment in Western Electric because they had to build a fire under some union representatives in that plant.

I was told to go to Camp Unity to meet more Progressives there. I was told to get an apartment to store literature and mimeograph machines for the Party in Winston-Salem. I was told to participate in the Martinsville Seven Vigil in Richmond. I attended the Washington Peace Crusade meeting in Washington.

I helped write and distribute leaflets in High Point, Winston-Salem and Durham and Chapel Hill. I helped organize, I worked with the union in Winston-Salem, the FTA union, and I helped write and publish the students Youth Bulletin, and there's many other things which I was told to do, sir.

Q. You stated that you were instructed to write your Senators and Congressmen, I believe. There may have been others. I don't recall it. I wish you would state it, if so, but
(1769)
you were to seek for, seek leniency for the Rosenbergs. Now who were the Rosenbergs?

A. The Rosenbergs were convicted for, I understand, giving atomic bomb secrets to the Russian Government. It was explained to me at this particular activity, that is, write letters, trying to get leniency for the Rosenbergs; we were told that we do not necessarily want the Rosenbergs freed, we just want them commited to a life sentence, because some day we will be able to free them.

* * *

(1791)

MR. TAYLOR: Your Honor, the defense will now move for a judgment of acquittal pursuant to Rule 29, Federal Rules of Criminal Procedure. * * *

(1794)

THE COURT: Gentlemen, the Court will deny the motion for a judgment of acquittal.

Ruling upon the motions to strike, the Court sustains the motion and rejects the exhibits designated as the Government's Exhibit 62 and 63, that is, the Textile Workers Voice of April, 1949, and another issue, circular entitled Textile Workers Voice of May, 1950. It will also strike Government's Exhibits 118, 119, which were offered yesterday.

The motion will be denied as to the other exhibits and they will be received in evidence. That is Government's Exhibits 64, 65 and 66. I think that disposes of everything that the Court had under advisement.

* * *

(1807)

MR. GAVIN: Your Honor please, from Exhibit No. 64, Government's Exhibit No. 64, which was identified by the

(1808)

witness, Clontz, and has been offered in evidence, I would like to read a portion from an article beginning on page 2, entitled The Danger of World War and the Fight For Peace,

by James Ford. This pamphlet, exhibit, Government's Exhibit No. 64 is entitled Our Party.

"We are not just faced with the imperialist drive toward war, nor merely armed aggressions against other nations. We are in a situation where U. S. imperialism is waging undeclared war against the North Korean people's government. It is a criminal reactionary slave-driver's war.

"The immediate world policies of the U. S. and its imperialism, in colonal sphere being what it is, that is to wage colonial war to express the national liberations, struggles of colonial peoples, and to enslave them, the North Korean people's republic was forced to wage a just war for national liberation and the independence of the country.

"The U. S. A. launched the war on North Korea through mobilizing the United Nations behind the adventure. It dominates the U.N. and has its sanction to put down with armed force the struggles of colonial peoples for self-determination and national independence anywhere in the world. And because of this the

(1809)

U.S. war on North Korea is frought with serious danger to world peace.

"The North Korean people's armies upset U.S. imperialism's timetable for world war. Defending national independence, it is making a profound impression in Asia. Since the Second World War the colonial peoples and in the first place China, have demonstrated tremendous fighting capacities for their national independence, have inflicted a mortal wound on imperialist colonialism and held up U.S. imperialism drive to world war, but U.S. imperialists are trying to undo all of this. They are waging war against the Korean people, threatening armed invasion of China, supplying arms against Indo-China, Malaya, and so forth, and they are instigating provocations in the Pnilippines, Puerto Rico and other Latin American

countries, all of which is aimed at world domination and even more ruthless imperialist colonialism than heretofore."

* * *

I would like to read a marked portion [from Government's Exhibit No. 65] on page number 5; the title of the (1810)
article is Who Is Preventing Termination of the War In Korea?

The most urgent and burning issue of the day is to end the war in Korea. So persistent is the demand for all countries to extinguish the flames of war lighted and fanned in the Far East by the American imperialists that even the ruling politicians of the capitalist world for all their cringing servility to America are forced to reckon with it. Hence, the importance attached by public opinion to the discussion of the Korean question in the Political Committee of the General Assembly.

The discussion was started by a faked-up charge leveled by Washington against the Communist people's republic and by an attempt to have it declared aggressor, but subsequent developments took quite a different turn from what Truman and Acheson had expected. The American political leaders are opposing as peace lovers and are vociferously claiming that their one desire is attainment of peace, but the truth is that they do not want the cessation of the Korean War because all of their plans and projects and all their practical measures are aimed at extending the area
(1811)
of aggression in the Far East.

If Your Honor please, I am going to ask Mr. Woerheide if he will read from the Exhibit No. 66.

MR. WOERHEIDE: This exhibit was introduced by the witness, Clontz, who testified that he received it from the defendant, Junius Scales. The cover bears the title I Saw the Truth in Korea. On page 3 the heading is What I Saw in Korea. The date line is September, 1950, and I begin reading at the bottom of page 4.

EXTRACTS FROM RECORD

"Going down to Taejon in South Korea, I kept hearing a report that a large number of 'political prisoners' had been slaughtered near there. That is a larger number than were murdered in the towns between Seoul and that city. Some said three thousand, some said four thousand.

"As is often the case in Korea, the facts were worse than the rumor for at that time most Koreans were not acclimatized to the diabolical ruthlessness of the Americans and their puppets. Try to imagine Rangwul Valley, about five miles southeast of Taejon on the Yongdong Road. Hills rise sharply from a level floor about one hundred yards across and a quarter of a mile long. In the middle you can walk safely, though your shoes may roll on American cartridge

(1812)

cases, but at the side you must be careful for the rest of the valley is a thin crust of earth covering corpses of more than seven thousand men and women.

"One of the party with me stepped through nearly to his hip in rotting human tissue. Every few feet there is a fissure in the topsoil through which you can see into a gradual sinking mass of flesh and bone. The smell is something tangible that seeps into your throat. For days after I could taste the smell. All along the great death pit, waxy dead hands and feet, knees, elbows, twisted faces and heads burst open by bullets, stick through the soil.

"When I read of Nazi murder camps at Belsen and Buchenwald I tried to imagine what they were like. Now I know I failed.

"All six of the death pits are six feet deep and from six to twelve feet wide. The biggest is two hundred yards long, two are one hundred yards long and the smallest thirty yards long. Local peasants were forced at the rifle point to dig them, and it was from these that I got the facts.

"On July 4, 5 and 6, all prisoners from the jails and concentration camps around Taejon were taken
(1813)
in trucks to the valley—after first being bound with wire, knocked unconscious and packed like sardines on top of each other. So truck loads were driven to the valley, shot and flung into the pits. Peasants were made to cover the filled sections of the pits with soil.

"For the next ten days prisoners from other places were concentrated in the emptied jails and the peasants went on digging. On July 16, the people's army smashed the American Kum River defense line and at dawn on July 17 the slaughter of the remaining prisoners began.

"On this day, thirty-seven truck loads of at least one hundred each were killed—over three thousand seven hundred, including numerous women.

"American officers, with officers of the puppet army, went in jeeps on each day and supervised the butchery. Every witness agrees on this, and I asked several separately to show me where the jeeps and the Americans stood. There were emptied packets of American cigarettes lying around. All of the thousand cartridge cases on the ground were made in America. I picked up a handful of M-1 carbine cartridge cases
(1814)
which I have still. Every one was fired at a Korean, Korean patriot.

"This was only one of the massacres carried out at American instructions. * * *"

(1827)

MR. GAVIN: Now, Your Honor, these exhibits have been accepted by the Court. We would like for the jury to be allowed to examine them, and at such time so that it will not interfere with the progress of the trials. There are other exhibits including all of them I would say that we wish—

THE COURT: Well, could not it be handled in this way? The exhibits will, of course, be sent to the jury at the proper time and they can make such inspection of them as they want.
(1828)

MR. GAVIN: That will be all right, sir.

* * *

MR. TAYLOR: The second motion is for a mistrial based on the admission and the reading from the Exhibits 64, 65 and 66. Those exhibits were admitted over our
(1829)
objection. The objection made on the ground that they were unrelated to any issue in the case, and were remote and prejudicial. We believe that the reading of the extracts from these exhibits to the jury was calculated to inflame passions of the jury and deny the defendant an opportunity of a fair trial, and on that basis we move for a mistrial.

* * *

(1831)

MR. WOERHEIDE: Well, there is considerable testimony, Your Honor, with respect to activities by the Communist Party not only in North Carolina, but all over the United States with respect to the Korean War, and there is considerable testimony regarding the activity of the defendant, Scales, in this connection.

MR. TAYLOR: Your Honor, there is nothing in the Smith Act, nothing in the indictment about the Korean War. That is why we say it doesn't relate to the issues of the case.

THE COURT: The motion for a mistrial will be denied.

I think the Court should caution the jury in respect to the exhibit that was read. Let the jury come in.

* * *

(1832)

THE COURT: Ladies and gentlemen, just before the recess was taken, there was read to you extracts from certain

of the exhibits in the form of pamphlets which had been admitted into evidence. I want to say to you that you should receive that evidence without any feeling, simply passively and impartially, and do not become excited or incited or inflamed by any such testimony. It is not admitted for the truth of it or for the falsity of it. It is simply admitted for
(1833)
the fact that it was published.

So I do not want you to be aroused by it or let it in any way influence your judgment or distort your ability to pass upon this case perfectly impartially as between the Government and the defendant. I want you to guard against weighing the evidence, except in the cold objective fashion, and dismiss any incitement or any feeling that may have been aroused in you, and just remember that it is simply admitted for its being the printed word, not for the truth or falsity of its contents. I am sure that you will not allow it in any way to take any other position in your mind.

* * *

(2178)

MR. GAVIN (Concluding Argument For Government)

I want you to look at Government's Exhibit No. 66, I Saw the Truth in Korea, and see the kind of propaganda they spread in this country as worthy of belief, and see whether or not there is language in that exhibit that would incite you to action.

* * *

(2181)

* * * In 1948, I believe it was, he told the witness, Clontz, that he knew that thousands of Communists were going to be arrested under the Smith Act, and he said something to Clontz, he wanted a lawyer to represent him.

He knew that he was heading for trouble. He knew that it was against the law to advocate the overthrow of the Government of the United States through force and
(2182)
violence, and yet he persisted in it, right on up here until

the time he was brought back here to Greensboro. He was underground for three years; where he was, we don't know. What he did, we don't know. Who he contacted, how many converts he brought into communism, we don't know.

* * *

MEMORANDUM IN SUPPORT OF MOTION FOR JUDGMENT OF ACQUITTAL—THE PROOF OF COMMUNIST PARTY ADVOCACY IN THE LIGHT OF THE YATES CASE

filed 2-18-58

In *Yates v. United States,* 354 US 298, the Supreme Court ruled (at p. 329) that the proof in that case was insufficient to establish that the Communist Party of the United States advocated forcible overthrow of the government "in the sense of a call to forcible action at some future time." It therefore becomes pertinent to compare the proof in the present case with that in the *Yates* case, in order to determine whether the prosecution has added anything of sufficient significance to satisfy the rule, laid down in the *Yates* case (at p. 329), that that Smith Act does not prescribe "advocacy of the abstract doctrine of forcible overthrow," but only advocacy to that end of an action-inciting type.

In the preparation of this memorandum, the defense has not had access to the complete record of the *Yates* case. It is believed however, that the government briefs in the Supreme Court of the United States, and in the Court of Appeals for the 9th circuit, contain a sufficient selection of the *Yates* evidence for the disposition of this motion. Examination of those briefs discloses that *every important item of proof presented in this case was also before the Supreme Court* in the *Yates* case, and that nothing has been presented here to support a conclusion different from

that reached by the Supreme Court. There has been a complete failure of proof of action-inciting advocacy on the part of the Communist Party during the statutory period (1951 to 1954) and the period covered by the indictment (1946 to 1954).

I. STRANDS OF PROOF

The defense has surveyed the evidence offered by the prosecution in this case, and has observed some 50 different "strands of proof" relating to the Communist Party. Obviously, such a selection cannot be incontrovertibly precise. Some strands are so closely connected as to be virtually inseparable, and a different eye might see a few more or less than are listed herein. But the showing is sufficiently clear for present purposes, and most of the strands are readily distinguishable. We have listed them below according to four general categories, according to geography and time. References to the government's *Yates* brief in the Supreme Court are cited as "S," and in the Court of Appeals as "C".

A. Basic Tenets of Communist Doctrine and Practice, Applicable in All Capitalist Countries.

1. Communist Party as the vanguard of the working class (Hartle, Lautner, Clontz). See S 158; C 164-65.

2. Dictatorship of the proletariat (Lautner, Hartle). See S 147 and 152 *et seq.*; C 54-55.

3. Marxist-Leninist doctrine as the basis of Communist Party theory and practice (Lautner, Hartle, Clontz). See S 146-50; C 54 *et seq.*

4. Proletarian internationalism as the bond between the working class of all nations (Lautner). See C 31.

5. Just and unjust wars (Lautner, Hartle). See C 36-41, 157, 187.

6. Communist "strategy" and "tactics" (Lautner, Hartle, Clontz). See S 159-60; C 27 and 166-67.

7. Imperialism as the last stage of capitalism (Lautner, Hartle). See S 154; C 156-57.

8. "Objective" and "Subjective" conditions necessary for successful revolution (Lautner, Hartle). See C 188-89.

9. Democratic centralism as a principle of Communist Party organization (Lautner). See S 164 and 168; C 54 and 99.

10. Dismissal or expulsion of Communist Party dissenters (Lautner). See S 169; C 103-14.

11. Impossibility of peaceful transition from capitalism to socialism; inevitability of force and violence (Lautner, Hartle, Clontz). See S 151-57 and 162; C *passim*.

12. Communist Party functionaries as "professional revolutionaries" (Lautner, Hartle). See C 57 and 165.

13. "Class struggle" as constant conflict between capitalists and working class (Lautner, Hartle). See S 151; C 150-52.

14. "Opportunism" as betrayal of the working class (Hartle). See S 158.

15. "Contradictions" of capitalism (Hartle). See C 151.

16. Revolution vs. "reformism" (Hartle, Clontz). See S 160; C 167-68.

17. "Monolithic" Communist Party (Lautner, Hartle). See S 164; C 165.

18. Surplus labor value theory (Hartle). This doctrine does not appear in either S or C.

19. The State as an instrument of oppression (Hartle). See S 151; C 152-53.

20. The Paris Commune as an early example of proletarian revolution (Hartle). See S 143; C 14-20 and 200-02.

21. Democracy as an avenue to revolution rather than a value in itself (Hartle). See S 152; C 131 and 192.

22. Working class to turn against own imperialist government and change an imperialist war into a civil war (Hartle). See C 26-27; 46-47 and 187.

23. Party dictatorship of the personal life of Communist Party members (Hartle). Does not appear in this form in S or C.

24. The "Cadre" (Duran). See C 33, 165.

25. Use of press and publications to educate the workers for socialism (Clontz). See C 85-98.

26. Exploiting social and political issues for Communist Party purposes (Hartle, Duran). See C 132-34, 213 and 234 *et seq.*

27. Infiltration of trade unions (Reavis, Hartle). See C 152.

B. Basic Tenets of Communist Doctrine Particular to or of Special Importance in the United States.

1. The "Negro nation" in the "black belt" with the right of "self determination" (Lautner, Hartle, Reavis, Cummings, Jones, Clontz and Childs). The prosecution in this case has seen fit to introduce far more evidence on this theme than in the *Yates* case or other Smith Act cases. But the essential idea appears clearly at C 157-58.

2. Concentration in basic industries (Lautner, Hartle). See S 174-77; C 54 and 134-41.

3. No United States "exceptionalism" (Lautner, Hartle). See S 153 and 163; C 12, 156 and 177-78.

4. Russian revolution of 1917 as guide for Communist plans and tactics in United States (Lautner, Hartle). See S 164; C 168-72.

5. Necessity of nation-wide re-education of Communist Party members after 1945 to stamp out "revisionism" and return to basic principles of Marxism-Leninism (Lautner, Hartle). See S 147-49; C 142-47.

6. Fallacy of "left wing sectarianism" (Hartle). See S 169.

C. Recent or Current Declarations, Policies, and Practices of Communist Party, of General Application Throughout the World.

1. Duclos letter and reaffirmation of Marxism-Leninism (Lautner, Hartle). See S 145; C 50.

2. The "United Front" (Hartle). See C 42-53 and 167.

3. Support of the Stockholm Peace Pledge (Hartle). See C 45.

4. Non-intervention in China and support of Chinese Communists (Hartle). This policy does not appear to be mentioned in the *Yates* briefs, but of course it is well known as a general policy of the Communist Party throughout the world.

5. Opposition to Allied intervention in Korea (Hartle). See C 45 and 242.

6. Opposition to the Tito government in Yugoslavia (Hartle). This policy does not appear in the *Yates* briefs, but is a well known feature of Communist foreign policy.

D. Recent or Current Declarations, Policies, and Practices of the Communist Party, of Special Importance in the United States.

1. Putting an end to Browder "revisionism" (Lautner, Hartle). See S 146; C 150.

2. Reduction in the size of the Communist Party units as a security measure (Lautner, Hartle, Clontz). See S 173; C 58.

3. The "underground" as a means of secret Communist Party operation (Lautner, Hartle, Clontz). See S 171; C 114-20.

4. Efforts to evade Taft-Hartley non-Communist oath requirements (Lautner, Hartle). This item does not appear in the *Yates* briefs.

5. Organization of the Communist Party Underground in "triangles" or "three's" (Lautner, Hartle). See S 171-72; C 121-23.

6. Underground use of radios, small mimeograph machines, etc. (Lautner, Hartle). See S 172-74; C 123-24.

7. Possible assistance of Red Army in time of revolution (Hartle, Clontz). This item does not appear to be mentioned in the *Yates* briefs.

8. The "independent" and the "mass" role of the Communist Party (Hartle). This item is not described in these words in the *Yates* briefs, but is implicit in the discussion of the Communist Party tactics.

9. A third party in the United States and support of the Progressive and A L P parties (Hartle, Clontz). This item does not appear in the *Yates* briefs.

10. "Infiltration" of mass organizations (Hartle, Clontz, Reavis, Duran). See C 236.

II. DOCUMENTARY EVIDENCE

The documentary proof offered to show the unlawful advocacy of the Communist Party differs in no significant respect from that produced in the *Yates* case. Here again, the defense has not had access to a complete list of the *Yates* exhibits. Likewise, there has apparently been a different selection of Communist periodical literature specifically from the monthly *Political Affairs*. Nevertheless, the similarity of basic documentary proof is striking, as is shown in the following table:

MEMORANDUM

Title	Yates Gov't. Ex.	Scales Gov't. Ex.
Communist Manifesto	39	2
Program Communist International	59	3
Stalin, Foundations of Leninism	1	5
Stalin, Problems of Leninism	146	6
Lenin, What is to be Done	266	7
Lenin, Imperialism, the Highest Stage of Capitalism	23	8
Lenin, Left Wing Communism	503	9
Lenin, Paris Commune	492	12
Strategy and Tactics	147	13
Dictatorship of the Proletariat	149	14
Lenin, State and Revolution	11	16
Lenin, Kautsky The Renegade	504	18
History of the CPSU	28	19
The Communist—January, 1940	12	20
The Struggle Against Revisionism	650	23
Political Affairs, September 1945	55	24
Outline on Fundamentals of Marxism	93	25
Political Affairs, September 1946	2	26
Study Course on the Communist Party	175	29
Political Affairs, June 1950	411	36
Lenin, War and the Second International	490	117

Government exhibits 17, 21, 22, 27, 30, 31, 38, 39 and 55 do not appear in the small selection of exhibits listed in Volume II of the Appendix to the Government's brief in the Court of Appeals, nor have we found them mentioned in the briefs. Whether or not any of these were introduced in evidence in the *Yates* case is unknown to us. However that may be, it is apparent that all of the basic Communist classics, and the principal recent pamphlets and outlines, relied on by the prosecution in the present case, were also before the Supreme Court in the *Yates* case. These included substantially all of the writings from which "revolutionary" extracts were read by the prosecution to the jury in the present case.

Respectfully submitted this 18th day of February, 1958.

Attorneys for the Defendant

s/ Telford Taylor

s/ McNeill Smith

DEFENDANT'S PROPOSED INSTRUCTIONS

DEFENDANT'S PROPOSED INSTRUCTION NO. 1

The defendant admits that he was a member of the Communist Party during the period from 1946 to 1954 specified in the indictment. Therefore, the two charges against the defendant which remain for your decision are:

(1) Did the defendant, during the period from November 18, 1951, to November 18, 1954, know the Communist Party to be a group or society that advocates the overthrow and destruction of the United States Government by force and violence as speedily as circumstances permit; and

(2) Did the defendant during that same period personally intend to overthrow and destroy the United States Government by force and violence as speedily as circumstances would permit.

DEFENDANT'S PROPOSED INSTRUCTION NO. 4

It is not a crime under the Smith Act for any person to incite or stir up other persons to take illegal or violent action if such action is not intended or reasonably calculated to lead toward the overthrow of the Government by force and violence.

DEFENDANT'S PROPOSED INSTRUCTION NO. 5

It is not charged in the indictment that the Communist Party is an organization that seeks to accomplish the violent overthrow of the Government by any means whatsoever.

It is charged that the Communist Party is an organization that teaches or *advocates* the overthrow of the Government by force and violence. Therefore, even if you should

be persuaded that the Communist Party seeks to accomplish the overthrow and destruction of the Government by force and violence, you cannot find the defendant guilty, unless you find that the Communist Party advocates or teaches such violent overthrow, and that the defendant knew that the Communist Party so advocates.

DEFENDANT'S PROPOSED INSTRUCTION NO. 6

In considering whether the Communist Party advocates the violent overthrow of the Government by language intended and reasonably calculated to incite persons to forcible action directed to that end, you should consider with the other evidence the official declarations and pronouncements of the Communist Party in its constitution, resolutions, and public statements of its leaders. You cannot find that the Communist Party engaged in unlawful advocacy merely because a particular group or groups within the Communist Party has engaged in such advocacy, unless you find that the unlawful advocacy of members within the party has been so extensive in time and place that it must be considered the advocacy of the Communist Party itself.

DEFENDANT'S PROPOSED INSTRUCTION NO. 7

If you find that the Communist Party has requested, encouraged, or incited its members or other persons to take action, you must then consider whether such action was intended and reasonably calculated to [redacted] accomplish the overthrow of the Government by force and violence. Such action does not mean or include activities that every citizen has the right to engage in under the Constitution and laws of the United States. Specifically, it does not include making speeches, publishing magazines, books, and leaflets, writing letters to newspapers and public officials, mass meetings, picketing and other recognized forms of public demonstration, or other means of public persuasion, unless those means are used to advocate the violent and forcible overthrow of the Government. You cannot find the defendant

guilty if the activities incited by the Communist Party include only such means of public persuasion as are used to voice opinions on public issues of foreign and domestic policy, no matter how unpopular or odious to the majority of American citizens those opinions may be.

DEFENDANT'S PROPOSED INSTRUCTION NO. 8

In considering the charge that the defendant knew the Communist Party to be an organization or society that advocates the overthrow of the Government by force and violence, you cannot find him guilty merely because you find that he knew that such advocacy is contained in certain books, writings, and statements of the Communist Party. You cannot find him guilty unless you determine that he knew that the Communist Party advocates the overthrow of the Government by force and violence, and so advocates by means of language reasonably and ordinarily calculated to incite persons to action which is directed at and intended to accomplish the forcible overthrow of the Government.

DEFENDANT'S PROPOSED INSTRUCTION NO. 12

You may not use testimony as to statements made by other persons as evidence against the defendant merely because such other persons were members of the Communist Party. The law does not make a member of the Communist Party responsible for the acts or statements of any other member merely because of their common membership in that organization.

DEFENDANT'S PROPOSED INSTRUCTION NO. 13

The fact that the defendant used any book or writing in any school or class, or discussed such book or writing with some other person, or has read such book or writing cannot, standing by itself, be taken as proof that the defendant agreed with or approved any particular statement contained in such book or writing, or had knowledge of the teaching and advocacy of any other person with reference to such book or writing.

DEFENDANT'S PROPOSED INSTRUCTION NO. 18

The words "revolution", "destruction" and "overthrow" do not of themselves imply the use of force or violence for the accomplishment of the objective which is sought. "Revolution", "destruction" or "overthrow" may be accomplished by peaceable and non-violent means.

DEFENDANT'S PROPOSED INSTRUCTION NO. 21, AS REVISED.

Defendant, in common with all other persons living under our Constitution, has the right protected by the First Amendment to criticize the Government and its foreign and domestic policies, as well as the right to praise the foreign policy of other governments and the role being played by those governments in international affairs. Therefore, your verdict in this case must not be influenced or affected by your view as to the truth or falsity, the reasonableness or unreasonableness or the validity or invalidity of opinions on these subjects expressed by the defendant or the Communist Party.

CHARGE TO THE JURY

THE COURT: As you know, ladies and gentlemen, the indictment here is drawn under what is called the Smith Act, and the indictment charges four things. It charges first that the Communist Party of the United States is a group teaching or advocating the overthrow and destruction of the government of the United States by force and violence, as speedily as circumstances will permit; second, that the defendant was a member of this Party; third, that while a member of the Party, he well knew of its teachings and purposes; and, fourthly, it charges that he, himself, specifically intended to bring about such overthrow of the Government of the United States, by force and violence, as speedily as circumstances would permit.

Those are the accusations of the indictment. If established, these alleged acts constitute a crime under the Smith Act.

All of those charges, each and every one of them, must be proved beyond a reasonable doubt before the defendant may be convicted. These four charges constitute the four elements of the crime of which the indictment accuses the defendant, and there is no crime if any one of them is not proved.

The defendant has entered a plea of not guilty. That is a complete denial of all of the charges, a denial absolutely of his guilt, a denial of every inference and implication of guilt.

In considering this case, I ask that you consider each of the elements of the offense separately and consider them in the order in which they are charged in the indictment. To be punishable, the criminal acts charged in the indictment must have been committed within the three-year period next preceding the finding of the indictment; that is, they must have been committed between November 18, 1951, and November 18, 1954. Unless the time is otherwise specified, the acts I have mentioned as unlawful are to be understood by you as only those occurring within this three-year period. The three-year period is fixed by the statute of limitations in the Federal Criminal Code.

Obviously, the first issue for you to decide is this: Was the Communist Party of the United States during this three-year period a group or society criminally teaching and advocating the overthrow and destruction of the United States Government by force and violence, as speedily as circumstances would permit. That is the first question for you to answer.

As you will recall, the evidence on this point consisted of certain books and treatises of Marx, Engels, Lenin and Stalin purporting to state and expound the principles and aims of Communism. The evidence included also the testimony of former members of the Party, explaining the content of these books and treatises and testifying to what they knew were the teachings of the Party. Likewise, the evidence included proof of the official declarations and pronounce-

ments of the Party and of its leaders. You should consider all of this evidence and determine whether it does, or does not, prove beyond a reasonable doubt that the Communist Party of the United States of America taught or advocated the overthrow and destruction of the Government by force and violence, as speedily as circumstances would permit.

You may consider evidence of the aims, principles and teachings of the Communist Party prior to the three-year period, that is, before November 18, 1951, in determining what were its aims, principles and teachings after November 18, 1951; but in this connection you must consider whether the aims, principles and teachings changed after November 18, 1951 or continued to be the same. But, remember, it is only the aims, principles, and teachings from November 18, '51, to November 18, '54, that are in question here.

The issue in this case is not whether you agree or disagree with the aims, objects, policies, or principles, either of the defendant or of the Communist Party. It is immaterial here whether the jury or the Court or anyone else disagrees with the policies or principles of the defendant or of the Party, or may consider them odious or despicable.

Moreover, it is the teaching or advocacy of the Party and not merely the teaching and advocacy of a certain group or groups within the Party that is to be ascertained by you.

In making your decision of this question I may be of some assistance to you by telling you what does, and what does not, constitute such a teaching or advocacy of force and violence as is criminal.

It is not criminal for any person or group to hold or express the belief that the Government of the United States should be completely changed. It is not criminal for any person or group to have such a change of government as a purpose or an aim, or to express the opinion or to predict that the Government of the United States will at some time

be overthrown by force and violence. It is not criminal to publicly advocate and urge such a change of government by peaceable and constitutional means. It is not criminal to criticize the government and its policies, foreign and domestic, or to praise the policies of a foreign government or governments. This is true regardless of whether you agree or disagree with the truth or falsity of such criticism or praise.

Nor is it criminal for the Communist Party or anyone else to teach that should a change in our form of government be made by peaceable and constitutional means, and thereafter the new government should be resisted by force and violence, then the new government would be justified in using force and violence to subdue such resistance. In other words, if the change has been made by peaceful and constitutional means, the new government would have the right to protect itself by force and violence against any other change, unless such subsequent change was to be effectuated by peaceful, constitutional means.

Moreover, you cannot convict the defendant merely because he was a member or an officer of the Communist Party, no matter what were the principles and teachings of the Party, for such membership or office alone is not a crime. Moreover, the teaching in the abstract or teaching objectively, that is, teaching, discussing, explaining, or expounding what is meant by the aim or purpose of any author, group, or society of overthrowing the Government by force and violence is not criminal. For example, study and discussion by the Communist Party or by any other group in classrooms, or in study groups, or public or private meetings with the object of informing the participants or the audience of the aims and purposes of the doctrines of Marx, Lenin, Stalin, or the Communist Party is entirely lawful. Furthermore, without being criminal, the Communist Party could privately or publicly endeavor to persuade its members that they should adopt and espouse the belief that the Government of the United States should be overthrown by force and violence as speedily as circum-

stances will permit. This is no more than advocating an idea, and advocating an idea is no crime. Moreover, without transgressing the Smith Act, the Party might even instruct its members that it would be for their good and benefit, if this belief or idea were carried into effect.

All of this is permissible because such utterances are protected by the First Amendment of the Federal Constitution, guaranteeing freedom of speech.

However, if the Party went further, and with the intention of overthrowing the Government by force and violence, it taught, or advocated a rule or principle of action which both, one, called on its members to take forcible and concrete action at some advantageous time thereafter to overthrow the Government by force and violence, and, two, expressed that call in such written or oral words as would reasonably and ordinarily be calculated to incite its members to take concrete and forcible action for such overthrow; then, if the Communist Party did that, the Party became such a society or group, as was outlawed by the Smith Act.

To be criminal the teaching or advocacy, or the call to action just described need not be for immediate action, that is, for action today, tomorrow, next month, or next year. It is criminal, nonetheless, if the action is to be at an unnamed time in the future, to be fixed by the circumstances or on signal from the Party.

It is criminal if it is a call upon the members to be ready, or to stand in readiness for action, or for a summons to action at a favorable, or opportune time in the future, or as speedily as circumstances will permit, provided always that the urging of such readiness be by words which would reasonably and ordinarily be calculated to spur a person to ready himself for, and to take action towards, the overthrow of the Government. But those to whom the advocacy or urging is addressed must be urged to do something now or in the future, rather than merely to believe in something. In other words, the advocacy must be of concrete action, and not merely a belief in abstract doctrine. However, the

immediate concrete action urged should be intended to lead towards the forcible overthrow, and be so understood by those to whom the advocacy is addressed.

Ladies and gentlemen, the inciting words or language do not have to be delivered in a speech, or an address, or harangue, or expressed in oratorical or emotional fashion. The incitment may take the form of quiet and earnest instruction in a classroom or in private discourse, but, to be criminal, the incitement must have been imparted with the intent to accomplish the overthrow of the Government by force and violence. Unless there is such intent, the activity of the Party is not criminal. However, there need not in fact be action. The Smith law punishes the call for action, even though action never comes about.

To summarize, it is not the abstract doctrine of overthrowing or destroying organized government by unlawful means which is denounced by the Smith Act, but rather the teaching and advocacy of action for the accomplishment of that purpose, by language reasonably and ordinarily calculated to incite persons to such action. Accordingly, you cannot find that the Communist Party of the United States was a society or group of persons who teach or advocate the overthrow or destruction of the Government of the United States by force and violence, unless you are satisfied beyond a reasonable doubt that the Party did in fact so teach or advocate, and did so with the intent that such teaching or advocacy be of a rule or principle of action, and by language reasonably and ordinarily calculated to incite persons to such action, all with intent to cause the overthrow or destruction of the Government of the United States by force or violence as speedily as circumstances would permit.

It is in this understanding, and in this understanding only, that you must determine whether the evidence shows beyond a reasonable doubt that the Communist Party of the United States of America was a group or society teaching and advocating the overthrow and destruction of the Government by force and violence at the propitious time.

If you are not convinced beyond a reasonable doubt that the Communist Party of the United States was such a group or society, or that it intended to overthrow the Government by force and violence, then you cannot find the defendant guilty, and you should acquit him without consideration of the remaining elements of the crime.

On the other hand, if you believe beyond a reasonable doubt that the Communist Party was such a group or society, then you should next consider whether the defendant, Scales, was an active member of, or affiliated with, the Party with knowledge of its aims and purposes. The defendant admits that he was a member of the Party. For his membership to be criminal, however, it is not sufficient that he be simply a member. It must be more than a nominal, passive, inactive, or purely technical membership. In determining whether he was an active or inactive member, consider how much of his time and efforts he devoted to the Party. To be active he must have devoted all, or a substantial part, of his time and efforts to the Party. Moreover, to be criminal, the activities of the membership and knowledge of the Party aims and purposes must have existed within the period from November 18, 1951, to November 18, 1954.

A specific intent, as I have already indicated to you, on the part of the accused to bring about the overthrow of the Government, as speedily as circumstances would permit, is also necessary and an indispensable requisite of the offense, and the intent must have existed during the three-year period.

You will readily recognize that knowledge and intent are states of mind, and they cannot be, and, hence, they need not be, proved by what you and I know as direct or eye, or autoptic evidence as it is sometimes called. Knowledge and intent can only be proved by circumstances, so in determining whether the defendant had the required knowledge and intent, you can, and you should, consider his opportunity to become aware of, or have notice of, learn

and acquire knowledge of, the aims and purposes of the Party. In this connection consider also his position, or participation in the Party, his education, his mentality, his study, his conduct, his words, his writings and all circumstances indicating knowledge or intent, or lack of knowledge or intent.

In making your determination in respect to the knowledge and intent you are not limited to the occurrences during the three-year period. For this purpose you may consider evidence of his knowledge and conduct as well as any other circumstances occurring prior to November 18, 1951. In determining the knowledge of the defendant, you can consider only those teachings and publications of the Communist Party, and statements by members of the Communist Party, which have been shown to be known to the defendant, and such teachings and publications or statements which have not been shown to be known to him cannot be considered by you in determining whether or not he is guilty under the charge.

If you have found beyond a reasonable doubt that the Communist Party of the United States was a group or society teaching or advocating the overthrow of the Government by force and violence when the time was ripe, but you are not convinced beyond a reasonable doubt that the defendant was an active member with knowledge of its purposes, or you are not convinced that he, himself, had the intent to accomplish that purpose, then you must find him not guilty, because those elements are just as indispensable to the offense as the aims and purposes of the Communist Party.

But, if you do believe beyond a reasonable doubt that the Communist Party of the United States was a society or group forbidden by the Smith Act, that the accused was an active member of the Party, that he well knew of its aims and purposes and that he, himself, intended to accomplish that purpose, then you should find him guilty as charged in the indictment.

So much, ladies and gentlemen, for the principles of law defining and establishing the alleged crime of the indictment. I will now endeavor to explain to you the principles of law governing how you are to determine whether or not the conduct and circumstances constituting this offense did in fact occur. These are well known principles of law, but they are, nevertheless, fundamental. They are binding upon every jury and every court in this land and their repetition or familiarity does not in any way lessen their importance.

The first is this: The Court charges you that whenever a person is charged with crime, he comes into court presumed to be innocent, and this presumption of innocence is an abiding one, and goes with the defendant throughout the entire case, and applies at every stage of the case until it is repelled by proof.

The burden is upon the United States to prove beyond a reasonable doubt the guilt of the defendant before he can be convicted. Mere suspicion or probability of his guilt, however strong, is not sufficient to convict. Nor is it sufficient if the greater weight or preponderance of the evidence supports the charge in the indictment. If the evidence of the acts and conduct of the defendant is just as consistent with his innocence as with his guilt, it is not sufficient to convict him. To warrant the conviction of the defendant, the evidence of his guilt must be so conclusive to exclude every reasonable hypothesis or theory of his innocence.

I can define reasonable doubt no better than to say that it is a doubt founded on your sound and reasonable judgment, after a consideration of all the evidence. A doubt that is engendered solely by sympathy, or a dislike to accept responsibility for convicting is not a reasonable doubt. The law does not require absolute certainty, nor does it require proof beyond all possibility of mistake. It does require that after weighing the entire evidence in the case, you should be satisfied to that degree of certainty that you would be willing to act on the faith of in your own

important affairs. If after a fair and dispassionate consideration of all the evidence, you reach a point where you can say upon your conscience and judgment that from the evidence you are morally certain of the guilt of the defendant, and that you cannot reconcile the evidence with any reasonable hypothesis of innocence, you will have been convinced beyond a reasonable doubt, and you should find the defendant guilty. If, however, upon weighing all the evidence, it does not satisfy your judgment and conscience to that degree of certainty that will enable you to say that you are morally certain of the guilt of the defendant, you should return a verdict of not guilty.

There is in this case, as in so many cases, the question of credibility or believability of witnesses. That is a determination solely for the jury. Neither by these instructions, nor by any ruling, nor by any words or remarks of the Court during this trial, does or did the Court intimate, or mean to give, or wish to be understood as giving, an opinion as to what the proof is or what it is not, or what the facts are in this case or what are not the facts therein. That is solely and exclusively for the jury to find and determine. However, it is the duty of the Court to point out to you certain general principles, which you should take into consideration when you consider this phase of the case.

There is, of course, no absolute guide or arbitrary measure by which the jury shall determine the truthfulness or untruthfulness of a witness. Among the things which the jury may properly consider in such determination are whether the witness has any motive or reason for being truthful or untruthful in his testimony; whether there has appeared from the attitude and conduct of the witness any bias, prejudice or feeling which may cause his testimony to be influenced thereby; whether his testimony bears the earmarks of truthfulness, or untruthfulness; and to what extent it is corroborated, or confirmed by other testimony which is not questioned, or to what extent it is corroborated or confirmed by the known or admitted facts. The jury also may consider the intelligence of the witness, and his

opportunity to have accurate knowledge of the matters to which he has testified. In other words, the jury may consider the testimony of the witnesses in connection with all the facts proven in the case and which are apparent, and from them determine the degree of credibility the jury will give to the witnesses, and the weight to be given to their testimony.

It is for you, ladies and gentlemen, to determine whether or not any witness, who testified in the capacity of an expert, has the qualifications of an expert on the matters concerning which he testified. Moreover, the opinions expressed by any such witnesses, the Court charges you, are not binding upon the jury and the jury may reject any such opinions which they find are not well founded in fact. In any event, such opinions are to receive such weight and credits as the jury may determine.

The Court charges you that the testimony of witnesses who were in the employ of the Department of Justice, or any of its agencies, must be examined with greater scrutiny and care than the testimony of an ordinary witness. This is because they are paid to investigate and obtain evidence, if any, of the crimes charged to the defendant, and the jury should consider whether such employment, or compensation, or anything incident thereto might affect their testimony.

The defendant has introduced evidence as to his previous good character. Such evidence should be considered by the jury, and given such weight as it is entitled to receive when considered in the light of all the other testimony. If a person, by his conduct, has built up a reputation for good character, it is certainly a fact which should be considered and the benefit of which should be given to him. But it is only one fact to be considered along with all other facts, and previous good character should not permit a person to escape conviction of a crime, if considering all of the facts, including the fact of previous good character, you are satisfied of his guilt beyond a reasonable doubt. The Court charges you that if the evi-

dence as to any material fact in the case is conflicting, then evidence of the good character of the accused may resolve such doubt into a reasonable doubt.

The defendant here has not taken the witness stand and testified in his own behalf. The Court charges you that the defendant was entirely within his rights in not testifying, and that such failure does not create any prejudice against him, and the jury should not permit that fact to weigh against the defendant in arriving at its verdict.

I remind you again, ladies and gentlemen, that the indictment in this case is in no sense evidence. It is simply a statement—a formal statement—of the charge or accusation made against the defendant, its purpose being simply to apprize the defendant of what the charge is against him. The fact that it was found by a grand jury does not give any weight to it as evidence.

You must decide this case entirely on the evidence as you have heard it from this witness stand, and not on any opinion not formed from this evidence. You decide it, too, within and upon the law as outlined to you by the Court in this charge.

The Court reminds you too, as you probably already know, that the statements and arguments of the attorneys do not constitute evidence in the case.

Your verdict, whether it be a verdict of not guilty or guilty, must be a unanimous verdict. It must be the verdict of each and every one of you—the verdict of all of you. no matter which way it may be.

When you retire to deliberate upon your verdict, the Court would suggest that you first select a foreman, or forewoman, to preside over your deliberations and to render your verdict when you are ready to do so. My understanding of the practice in this district is that the jury does not return a written verdict. The jury simply returns into court and the foreman, or forewoman, on the request of the clerk announces the verdict of the jury. Your verdict would

be "not guilty" or "guilty," and no more. In the event you find the defendant guilty, you do not have anything to do with the fixing of the punishment of the defendant.

The exhibits will be sent to you in your jury room.

The Court will ask the alternates to now stand aside.

Ladies and gentlemen, after the alternates leave the jury room, I will ask you to retire to the jury room, but let me say to you this, and ask you to obey it rigidly. Do not commence your deliberations or take any action until the Court sends you word to commence. Under the rules the Court has to, after charging the jury, consider any questions of law. The Rules of Federal Criminal Procedure require that to be done before the jury retired, but out of the hearing of the jury, and it cannot well be done out of the hearing of the jury unless the jury has retired. So I will ask you to retire, but not to begin your deliberations until I send you word. Will you withdraw now.

(The jury retired to the jury room at 3:52 o'clock p.m.)

EXCEPTIONS TO CHARGE OF COURT

(2215)

MR. TAYLOR:

Thirdly, we except to the portion of the charge stating that the requirement of incitement to action is fulfilled if there is a call on members to be ready for action. We do not believe that the mere state of being in readiness is action, within the meaning of the Supreme Court's decision, that a call to do nothing except be there is in itself a call to action in any real sense, and that that is not in accordance with the Supreme Court's decision in the Yates case.

Finally, we except to the portion of the charge in respect to active membership in the Party for two reasons. In the first place, we do not believe that mere activity is an element of the offense under the Statute, nor to the

charge in the indictment. That mere fact alone, of course, would not have made the charge prejudicial to the defendant but it seems to us that the way that portion was given, it was suggested that mere activity might supply the re-
(2216)
quirement of guilty knowledge. It seemed to us to suggest that active membership in the sense of carrying on Party activities would support an implication of knowledge that the Party's purpose was to advocate violent overthrow, and in that respect we believe that the charge was prejudicial and, likewise, not necessary under the language of the Statute and under the indictment.

SUPPLEMENTAL CHARGE

THE COURT: Ladies and gentlemen, in the course of the charge, I used the words "an organization outlawed by the Smith Act." I do not want that to in any way mislead you. I mean a society or group forbidden by the Smith Act. I used the word "outlawed" in the sense of being forbidden or prohibited by the Smith Act.

In another part of the charge the Court also told you that it would be criminal if it was a call upon the members to be ready or to stand in readiness. I do not want that to mislead you. Simply to be ready or to stand in readiness would not suffice as a call forbidden by the Smith Act. The call must be for action at some future time, at a time that is unnamed, but a time that is determined by the signal of the Party or by the circumstances, or as it is expressed, as speedily as circumstances will permit.

I simply wanted to clarify those two points in the event they might have misled you.

Now if you will retire and commence your deliberations without further waiting for word from the Court.

JUDGMENT

Judgment and Commitment

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

United States of America
v.
Junius Irving Scales

No. Cr-4320-O
Title 18 USC Sec. 2385

On this 21st day of February, 1958 came the attorney for the government and the defendant appeared in person and by his counsel.

IT IS ADJUDGED that the defendant has been convicted upon his plea of not guilty of the offense of Membership in an organization which teaches the overthrow of the government by force and violence, contrary to section 2385, title 18, U. S. Code as charged in the indictment and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Six (6) years, unless sooner released by operation of law.

JUDGMENT

IT IS ADJUDGED that, upon motion of the defendant, execution of the foregoing commitment be suspended for a period of 90 days to allow the defendant to perfect an appeal to the said judgment, and thereafter until final termination of the proceedings on said appeal in all courts, if said appeal is perfected in the manner and within the time prescribed by law, the defendant being let to bail pending said appeal upon bond in the sum of $20,000.00 with approved security.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

* * *

/s/ Albert V. Bryan

Albert V. Bryan—United States District Judge.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A. Constitution of the United States:

1. Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assembly, and to petition the Government for a redress of grievances.

2. Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

B. Statutes

1. 18 U. S. C. Section 2385 (the Smith Act):

Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or the government of any State, Territory, District or Possession thereof, or the government of any political subdivision therein, by force or violence, or by the assassination of any officers of any such government; or

Whoever, with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating,

advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence, or attempts to do so; or

Whoever organizes or helps or attempts to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof—

Shall be fined not more than $10,000 or imprisoned not more than ten years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

2. 50 U. S. C. Section 783 (the Internal Security Act of 1950):

(a) It shall be unlawful for any person knowingly to combine, conspire, or agree with any other person to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship, as defined in paragraph (15) of section 782 of this title, the direction and control of which is to be vested in, or exercised by or under the domination or control of, any foreign government, foreign organization, or foreign individual: *Provided, however,* That this subsection shall not apply to the proposal of a constitutional amendment.

* * *

(c) It shall be unlawful for any agent or representative of any foreign government, or any officer or member of any Communist organization as defined in paragraph (5) of section 782 of this title, knowingly to obtain or receive, or attempt to obtain or receive, directly or indirectly, from any officer or employee of

the United States or of any department or agency thereof or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, unless special authorization for such communication shall first have been obtained from the head of the department, agency, or corporation having custody of or control over such information.

* * *

(f) Neither the holding of office nor membership in any Communist organization by any person shall constitute per se a violation of subsection (a) or subsection (c) of this section or of any other criminal statute. The fact of the registration of any person under section 787 or section 788 of this title as an officer or member of any Communist organization shall not be received in evidence against such person in any prosecution for any alleged violation of subsection (a) or subsection (c) of this section or for any alleged violation of any other criminal statute.

3. 50 U. S. C. Sections 841 and 843 (the Communist Control Act of 1954):

Section 841. The congress finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. Unlike political parties, which evolve their policies and programs through the public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large

for approval or disapproval, the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the world Communist movement. Its members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchial chieftains. Unlike political parties, the Communist Party acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence. Holding that doctrine, its role as the agency of a hostile foreign power renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced into the service of the world Communist movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed.

Section 843. (a) Whoever knowingly and willfully become or remains a member of (1) the Communist Party, or (2) any other organization having for one of its purposes, or objectives the establishment, control conduct, seizure, or overthrow of the Government of the United States, or the government of any State or political subdivision thereof, by the use of force or violence, with the knowledge of the purpose or objective of such organization shall be subject to all the

provisions and penalties of the Internal Security Act of 1950, as amended, as a member of a "Communist-action" organization.

(b) For the purposes of this section, the term "Communist Party" means the organization now known as the Communist Party of the United States of America, the Communist Party of any State or subdivision thereof, and any unit or subdivision of any such organization, whether or not any change is hereafter made in the name thereof.

4. 28 U. S. C. Section 1861 (Qualifications of jurors):

Any citizen of the United States who has attained the age of 21 years and resides within the judicial district, is competent to serve as a grand or petit juror unless:

(1) He has been convicted in a state or federal court of record of a crime punishable by imprisonment for more than one year and his civil rights have not been restored by pardon or amnesty.

(2) He is unable to read, write, speak and understand the English language.

(3) He is incapable, by reason of mental or physical infirmities to render efficient jury service.

(4) He is incompetent to serve as a grand or petit juror by the law of the State in which the district court is held.*

5. 28 U. S. C. Section 1864 (Manner of drawing names of grand and petit jurors):

*Section 9.1 of the General Statutes of North Carolina states that a juror must be a person who resides in the county, who is over 21 years of age and who is "of good moral character" and has "sufficient intelligence to serve as a member of grand and petit juries." The statute excludes from any jury service all those "who have been convicted of any crime involving moral turpitude or who have been adjudged to be *non compos mentis*".

The names of grand and petit jurors shall be publicly drawn from a box containing the names of not less than three hundred qualified persons at the time of each drawing.

The jury box shall from time to time be refilled by the clerk of court, or his deputy, and a jury commissioner, appointed by the court.

* * *

The jury commissioner and the clerk, or his deputy, shall alternately place one name in the jury box without reference to party affiliations, until the box shall contain at least 300 names or such larger number as the court determines.

* * *

6. Public Law 85-269; 71 Stat. 595.

Chapter 223 of title 18, United States Code, is amended by adding a new section 3500 which shall read as follows:

"§ 3500. Demand for production of statements and reports of witnesses

"(a) In any criminal prosecution brought by the United States, no statement or report in the possession of the United States which was made by a Government witness or prospective Government witness (other than the defendant) to an agent of the Government shall be the subject of subpoena, discovery, or inspection until said witness has testified on direct examination in the trial of the case.

"(b) After a witness called by the United States has testified on direct examination, the court shall, on motion of the defendant, order the United States to produce any statement (as hereinafter defined) of the witness in the possession of the United States which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.

"(c) If the United States claims that any statement ordered to be produced under this section contains matter which does not relate to the subject matter of the testimony of the witness, the court shall order the United States to deliver such statement for the inspection of the court in camera. Upon such delivery the court shall excise the portions of such statement which do not relate to the subject matter of the testimony of the witness. With such material excised, the court shall then direct delivery of such statement to the defendant for his use. If, pursuant to such procedure, any portion of such statement is withheld from the defendant and the defendant objects to such withholding, and the trial is continued to an adjudication of the guilt of the defendant, the entire text of such statement shall be preserved by the United States and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant pursuant to this section, the court in its discretion, upon application of said defendant, may recess proceedings in the trial for such time as it may determine to be reasonably required for the examination of such statement by said defendant and his preparation for its use in the trial.

"(d) If the United States elects not to comply with an order of the court under paragraph (b) and (c) hereof to deliver to the defendant any such statement, or such portion thereof as the court may direct, the court shall strike from the record the testimony of the witness, and the trial shall proceed unless the court in its discretior shall determine that the interests of justice require that a mistrial be declared.

"(e) The term 'statement,' as used in subsections (b), (c), and (d) of this section in relation to any witness called by the United States, means—

"(1) a written statement made by said witness and signed or otherwise adopted or approved by him; or

"(2) a stenographic, mechanical, electrical, or other recording or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement."

Approved September 2, 1957.

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In the
UNITED STATES COURT OF APPEALS
for the Fourth Circuit

No. 7637

JUNIUS IRVING SCALES,
Appellant

v.

UNITED STATES OF AMERICA,
Appellee

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA (Bryan, J.)

APPENDIX FOR APPELLEE

JOHN LAUTNER'S TESTIMONY

DIRECT EXAMINATION

(tr. 80) * * *

Now, Mr. Lautner, were you ever a member of the Communist Party of the United States?

A Yes.

NOTE: "(tr. ——)" is reference to the beginning of Reporter's Transcript pages. They are all set flush left for convenience, hence in some instances may be off several words.

Q During what period of time?

A From the year of 1929, up to the beginning of 1950, and with the exception of the time I was in the armed forces, I was a member of the Communist Party.

Q Did you leave the Communist Party voluntarily?

A No.

Q What were—would you briefly describe the circumstances surrounding your leaving the Party?

* * *

(tr. 81) THE WITNESS: I was accused of being a Government agent and I was forcibly expelled from the Communist Party.

BY MR. KEENEY:

Q That was in January, 1950?

A That is correct.

Q Now what, if anything, did you do after your expulsion from the Communist Party?

A Well, I was in a turmoil, mental turmoil and in a very upset condition for months because the accusation was an unjust accusation, and finally I decided in September, 1950, to get in touch with the Government about the Communist Party.

Q Excuse me. What did you do in that connection?

A I wrote a letter to the Director of the Federal Bureau of Investigation, J. Edgar Hoover, explaining to him who I was and what happened to me in the Communist Party, and I offered my unconditional cooperation to the Federal Bureau of Investigation to fight Communists.

* * *

(tr. 82) * * *

MR. KEENEY: If the Court please, I would like to read this to the jury at this time.

Government's Exhibit 1 is a letter, at the top New York City, September 14, 1950.

(tr. 83) Dear Sir:

First let me introduce myself. My name is John Lautner. I was expelled from the Communist Party U.S.A. in January, 1950. Up to that time I was New York State Chairman of the Review Commission and a member of the National Review Commission. I was expelled for being a "enemy agent of long standing". This is not a joke, and you will understand my reaction and emotional disturbance that followed for the kind of treatment I received as a loyal member of the C.P. But this is over now. I had to resolve many personal ideological problems in my thinking before I could come to this decision. I am ready and willing without any reservations on my part to give my fullest co-operation to the aims and objectives of your organization. I can be contacted at 579 Fort Washington Avenue, New York City. Telephone WA-3-9011. Respectfully yours.

And then it is signed John Lautner. There is a P.S. to the letter.

P.S. Due to some aspects of illegal activities of the C.P., in my opinion, it would pay to exercise the utmost discretion for the time being.

With the initials J. L.

(tr. 84) BY MR. KEENEY:

Q As a result of that letter, I take it, you were put in contact with the Federal Bureau of Investigation.

A Yes.

Q Mr. Lautner, in your letter there are mentioned two positions in the Communist Party; were you commission, position in New York State, and a membership in the National Review position of the Communist Party during your membership in the Party, did you hold any other positions?

A Yes.

Q Would you briefly describe to us the other position that you held in chronological order, if possible?

A All right.

In 1930, in the spring, I was sent in to a National Training School of the Communist Party. It was held in New York City. I was a student in that school, and after graduation I was sent out to Detroit, Michigan, as District Secretary of the Hungarian Bureau of the Communist Party. I functioned in that capacity, in Detroit, Michigan, and in addition to that for a short while I was also Control Commission Secretary of the Michigan District of the Communist Party.

Early in 1931 I was transferred from there to Canada.

Q Was that an assignment by the Communist Party of the United States?

(tr. 85) A That is correct. The transfer came from the Organizational Department of the Communist Party.

I functioned in Canada for about nine months. From

there I was reassigned to Cleveland, Ohio, as District Secretary of the Hungarian Bureau in Cleveland, Ohio, and also as one of the editors of the daily Communist paper in Cleveland.

From there I was reassigned in 1933 as a Section Organizer of the Communist Party in New York City. I functioned in that capacity up to April, 1936. Then I was reassigned as District Organizer or State Chairman of the Communist Party of the United States of West Virginia. I functioned in that capacity to the end of 1940.

At the beginning of 1941 I was reassigned again to the National Training School, and after graduation from that school in, at the end of April in 1941, I was assigned to the Nationality Groups Commission of the Communist Party in New York and also National Secretary of the Hungarian National Bureau of the United States. I functioned in these capacities up to November, 1942, and also in addition to that for about six months I was also assigned as National Secretary of a Sick and Death Benefits Organization known as the International Workers Order of the Hungarian Section of it, with 16,000 members.

In November of '42 I was drafted into the Army. I served in psychological warfare up until the end of May in (tr. 86) 1945, and I came back from overseas. I was discharged from the Army. I was reassigned to the Nationality Groups Commission by the Party in '45.

Q This was in New York, was it, Mr. Lautner?

A That was in New York. That's right, and also as a National Secretary of the Hungarian Bureau. In 1946 I was assigned in the reorganization of the New York Dis-

trict on an industrial basis. My specific assignment was the Building Trades Section of the Communist Party in New York. In early 1947 for awhile I was sent out to the Concentration Region of New York. That was the New York waterfront. The Chelsea Region.

Q What do you mean by Concentration Region, Mr. Lautner?

A Well, as a result of the 1945 reconstitution convention the Party laid down a three-pronged program of which concentration policy was one of the prongs.

Q Concentration in what?

A In basic industries.

Q Thank you.

A Then in May, 1947, I was appointed State Chairman of the Review Commission of the New York State Organization of the Communist Party. I functioned in that capacity up until the time I left the Communist Party at the beginning of 1950, and in addition to that in 1948 I was also appointed to the National Review Commission of the (tr. 87) Communist Party and functioned in that capacity, too, until I left the Communist Party.

Q Mr. Lautner, during the time you were a member of the Party did you attend any National Convention of the Party?

A Yes, numerous National Conventions.

Q Would you tell us which conventions you attended.

A I attended the National Convention of the Communist Party in 1936, in 1938, 1940, two conventions in 1940, in 1942, in 1945 and in 1948.

Q Now during this period of time, during the period you were in the Party, did you also attend National Committee

meetings?

A Yes. I attended National Committee meetings in the years of '36, '37, '38, '39, '40, '41, and possible a meeting in '42. I am not certain about that.

Q Mr. Lautner, while you were a member, I believe you made mention of a school. Did you attend as a member of the Communist Party, did you not?

A Well, I mentioned two schools, one in 1930 and one in 1941.

Q Now the first of these schools, when was that held?

A That, in 1930, in the spring of 1930.

Q In what type school was this?

A That was a National Training School organized by the Hungarian National Bureau of the Communist Party, composed of students from all over the country.

(tr. 88) Q Mr. Lautner—

A It lasted about three and a half months.

Q What is the Hungarian Bureau?

A The Hungarian Bureau was under supervision of the Language Department of the Communist Party, composed of leading Communists who knew the language, to give leadership and guidance, Communist leadership and guidance in that particular national group field.

Q Where was this school held, Mr. Lautner?

A This school was held in New York City and in the Party Building on Union Square, when the Party Building was on Union Square, in that particular period.

Q Why do you describe it as the Party Building?

A Because in the building there were a number of Party institutions, such as, the New York District Organization of the Party, "The Daily Worker", and other Party or-

ganizations; the National Office was not in that building. The National Office was on 125th Street at that time.

Q I don't know whether you told us how many students attended the school, Mr. Lautner?

A About twenty; my best recollection about twenty.

Q Were they all from New York?

A No, they were from all over the country.

Q Now while you were attending this school, did you pay tuition?

(tr. 89) A No.

Q Did you provide your own living quarters?

A No.

Q Did you pay your expenses?

A No.

Q Who paid them?

A The National Hungarian Bureau.

Q Do you know if that was—

A It was true of some, some of them, though, came from out of town, their respective organization that sent them in to New York paid their expenses, of some of them.

Q You know that of your own knowledge?

A. Yes.

* * *

(tr 90) * * *

Q I ask you also whether an individual by the name of Toth taught at the school?

A Yes, a person named Toth, later known to me as Louis Weinstock was also a teacher in that class.

Q Mr. Lautner, you told us that an individual by the

name of Louis Bachrach taught a course at this school. Was he a member of the Communist Party at this time?

A Yes, sir.

Q Did he hold a position?

A Yes, sir.

Q What position did he hold?

A He was editor of the Hungarian daily paper, Communist paper in New York.

Q Did he hold any position in the Communist Party as of the time you left the Party?

A At the time I left the Communist Party in 1950, he held a high position in another Communist Party.

Q Now what course did Bachrach teach?

A He taught the Communist Manifesto.

Q That is a, Communist Manifesto by—

A Karl Marx. That is correct.

Q You say that there was a Dr. John Gyetvai taught at the school?

A That's correct.

Q Did he hold any position in the Communist Party at (tr. 91) that time?

A He was one of the editors of the daily Communist paper in New York.

Q As of the time you left the Party did he hold any position in the Party?

A Yes.

Q What position?

A He was the ambassador to Turkey of the Hungarian Communist Government.

Q What course did he teach?

A Dialectical materialism and historical materialism.

Q I will ask you the same question with respect to James Lustig; what did he hold, any position in the Party at that time?

A He was another editor of that paper.

Q As of the time you left the Party, did he have a position therein?

A Yes.

Q What was it?

A He was an international representative of the United Electrical Workers Union.

Q Do you know whether or not he had any position in the Communist Party itself at that time, at the time you left?

A That was it. Well, I don't know that he was a District Organizer for a while, and then he was assigned to the (tr. 92) U.E., and he held that position for a long, long time, I think from the mid-1930's up until the time I left the Party, and he may even have it today. I don't know.

Q What course did he teach, Mr. Lautner?

A Marxism-Leninism.

Q All right. Now you say that there was a Dr. John Santo?

A He was not a doctor, John Santo.

Q Excuse me. Mr. John Santo. What position, if any, did he hold in the Communist Party at that time?

A At the time he was teaching, he was also one of the editors of this daily paper.

Q What did he teach?

A The Decisions of the Sixth World Congress of the Communist International.

Q Now Antonio Vexler was—did she hold a position in the Communist Party at that time, at the time she taught at the school?

A That's right. She had a—she was an editor of a weekly Communist magazine for women.

Q What did she teach at the school, Mr. Lautner?

A Her subject matter was the Paris Commune.

Q Did she use any publication in connection with her teaching?

A Yes, we had a booklet on the Paris Commune.

(tr. 93) Q Was that in English.

A No, that was in Hungarian.

Q Now you said that Louis Toth taught at the school. Do you recall what he taught?

A Yes. Louis Toth taught the History of the Russian Revolution and the History of the Communist International.

Q Did you know Louis Toth by any other name?

A Yes. Louis Weinstock.

Q Did he hold any position in the Communist Party at that time?

A Yes, he was Business Manager of the Hungarian daily Communist paper, and later on he became a union official.

Q As of the time you left the Party, did he hold any position therein?

A Yes.

Q What position did he hold?

A He was a member of the National Review Commission, the same commission I was a member of.

Q Mr. Lautner, you said that an individual by the name of Peters taught at this school, I believe?

A That's correct.

Q Did he hold any position in the Communist Party as of the time he taught?

A Yes.

Q What position did he hold?

(tr. 94) A He was Business Manager for the "Daily Worker" at that time.

Q Now, subsequently, in the Communist Party did you have any contact with this individual?

A Yes.

Q Do you know what, whether or not he held any subsequent positions?

A Yes.

Q What position did he hold?

A I know that he held positions in the New York District of the Communist Party as Organizational Secretary of the New York District. He held positions in the national leadership as an Organizational Specialist. He held a position at one time in the late 1930's where he was in charge of the Communist Party in Washington—in Washington, the Government apparatus. He was teaching numerous classes for the Communist Party, groups of young Communist Party members for colonization into basic industries. These were some of the positions that I know he held.

Q Mr. Lautner, what course did Mr. Peters teach at this school?

A He taught Political Economy, Marx and Political Economy.

Q Do you know whether or not this Peters ever wrote anything for publication for the Communist Party?

(tr. 95) A Yes.

Q What did he write?

A In the, around the mid-1930's he wrote a booklet. It was called a Manual on Party Organization, which dealt with fundamental principles and Party organizational principles and problems.

Q Mr. Lautner, while you were at the school you were told what the purpose of the school was?

A Yes.

Q What were you told the purpose was?

MR. TAYLOR: You could—Your Honor, could we have specifications, told by whom and when?

THE COURT: Yes.

MR. KEENEY: You were told what the purpose of the Party was? Who told you?

THE WITNESS: You mean what the purpose of the school was?

BY MR. KEENEY:

Q Purpose of the school was. I am sorry. Will you tell us who and when.

A Yes. It was after the end of the 1930 school. We had an evaluation of the school, its work, by J. Peters and Dr. John Gyetvai, and this evaluation was held in the auditorium at 350 East 81st Street in New York City, and the purpose of the school was stated in the evaluation by the (tr. 96) two mentioned persons.

Q Who were they, sir?

A J. Peters and Dr. John Gyetvai.

Q What did they say the purpose was?

A The purpose was to, first of all, to develop professional revolutionaries, and to develop capable leadership to satisfy the needs for the organizational problems confronting the Party and the Hungarian National Group field.

Q Mr. Lautner, were you told what a professional revolutionary is?

A Yes.

Q What is it, as you were told?

A A Professional revolutionary is one who dedicates his life to the aims and objectives of the Communist Party, to whom the Party needs are primary. His personal problems, if any, are secondary; who can uproot himself any time when the Party calls upon him, if necessary, to go into a factory and work, or take an assignment as an organizer where else to submit himself completely to the needs of the Communist Party; that type of a person is known as a professional revolutionary.

* * *

(tr. 97) Q When were you told what you were expected to do as professional revolutionaries?

A In the evaluation it was brought out, as I stated before, both by Dr. Gyetvai and J. Peters, and we were receiving assignments as to our future work, and we were asked to live up to the expectations of the Party's leadership and to not to disappoint those who had confidence in us in sending us to the school as students, so that they can be proud of the fact that we are carrying out the decision of the Party after graduation.

Q Mr. Lautner, at the school were you told what Marxism-Leninism is?

(tr. 98) MR. TAYLOR: I have to make the same re-

quest, Your Honor, to be specific, by whom and when he was told this.

BY MR. KEENEY:

Q Were you told first, Mr. Lautner?

A Yes.

Q When?

A Well, I was told on numerous occasions in the course of twenty years and—

Q But at this school?

A I used to tell students myself on numerous occasions.

Q Well, at the school.

A At this particular school; yes.

Q Who told you?

Q It was brought out in two different, two different subject matters. It was brought out in the subject matter of Marxism-Leninism. It was brought out in the decision of the Sixth World Congress by both Lustig and Santo, and probably others.

Q Mr. Lautner, I don't want to go into Marxism-Leninism at this point, but I want to ask you this question. Were you taught at this school concerning the applicability of Marxism-Leninism to the conditions of the United States at that time?

A Yes, sir.

/Q I will ask you this question. Did you use at any (tr. 99) time subsequent to this school, teach concerning the applicability of Marxism-Leninism to conditions in the United States?

A Yes.

Q When was that?

A Well, as late as 1947-48 when I was teaching classes of Marxism-Leninism in New York City.

Q Did you subsequently—well, let me ask you this.

You say you attended two schools, Mr. Lautner. When was the second one?

A The second one was the National in which I was a student.

Q Which you were a student?

A Yes, sir; in 1941, the National Training School.

Q Now at this 1941 Training, National Training School, concerning the applicability of Marxism-Leninism to conditions in the United States at that time, were you taught substantially the same as you were taught at the 1930 school?

A Subsantially the same.

* * *

(tr. 105) * * *

Q All right.

Mr. Lautner, subsequent, you just described what took place in general terms at the 1930 National Training School —subsequent to that time did you, yourself, participate in any teaching program of the Communist Party?

A Yes.

Q What is the first such instance that you, do you recall?

A The first one was right after I got to Canada. I was instructed by the Central Committee of the Canada Party to organize a school there. Then later on I was also assigned as a Director of a school in Cleveland, Ohio.

(tr. 106) Q Now with respect to this Canada school, did you, what materials did you use?

A The same material that we used in the New York school where I was a student.

Q What curriculum did you follow?

A The same curriculum. It was patterned after the curriculum in teaching material of the New York school.

Q Now you mentioned the school in Cleveland. When was this school?

A That school was 1933, I think.

Q What was your connection with this school, Mr. Lautner?

A Well, that school was in two sections. The one section of that school was held in New York and the other section was held in Cleveland. One covered Eastern Seaboard for student material and the other the Midwest, and I was Director of this Midwest Section of that Training School.

Q Approximately how long did this Training School last, Mr. Lautner?

A Approximately three months.

Q And with respect to the curriculum?

A It was the same as the curriculum, approximately the same as the curriculum in the first New York National Training School which I had attended.

Q Now, Mr. Lautner, subsequent to the 1930, you say (tr. 107) '32 classes—

A '33; yes.

Q Classes, did you participate in any other teaching program of the Communist Party?

A Yes. At the time I was a Section Organizer in New York, I conducted numerous so-called indoctrination classes, new members, classes, in that section in New York, and

from time to time group lectures for small groups, and then again in parts of 1946 and 1947 and part of 1948 I taught.

* * *

(tr. 126) * * *

Q Now, Mr. Lautner, you mentioned that you had attended two schools in the Communist Party. What was the second school you attended?

A The second school was the National Training School of the Communist Party in 1941.

Q Where was it held?

(tr. 127) A That school was held in New York City.

Q Where in New York City?

A In various places. In apartment homes, in apartment houses, and from day to day we went to a different place to hold the school.

Q Now how did you come to go to this school?

A Well, I was reassigned, after being almost five years in West Virginia, as a State Chairman, and before my reassignment took place, I was instructed, I was assigned to go to school again.

* * *

(tr. 129) * * *

Q Now, Mr. Lautner, at this time were you told what the National Training School was?

MR. TAYLOR: May we have by whom and when, Your Honor please?

MR. KEENEY: First, were you told, Mr. Lautner?

THE WITNESS: Yes.

BY MR. KEENEY:

Q By whom?

(tr. 130) A By the Director of the school, Pop Mindel.

Q What did he tell you the National Training School was?

A Well, he told us at the time when we first assembled that knowing, well, that we were Party leaders, that we had not come out to relax, nor we were on a vacation, that we would work harder than we ever worked before, that it cost a lot of money and effort and talents on the part of the Party to take us out of activity and put us in a school of this sort. Pop told us that normally if the situation wouldn't, the world situation wouldn't be as it was, we would be sent to the Lenin School. However, the Party has made every effort to get the best available instructors for this class and it will be a high-level class and he told us that we will have to organize ourselves into two groups and to develop competition between one group and the other group.

He outlined the work program, how we will study. He introduced the instructors and the subject matters, the curriculum. He assigned specific functions to students, who will be in charge of certain aspects and problems of the classes, as such. These were in substance his opening remarks to the class.

Q You referred, you said Lenin, you said Mindel referred to the Lenin School; continuing on the Lenin School, what was the Lenin School, did he say?

(tr. 131) A The Lenin School was a school to develop professional revolutionaries for the Communist Party, and it was considered the highest school that was available at one time for America—

MR. TAYLOR: Show where this school is, Your Honor.

THE WITNESS: Yes, in Moscow.

BY MR. KEENEY:

Q Moscow, Russia?

A That is right. It was available for cadre personnel of the American Party and personnel of other Communist Parties for education, Communist education.

THE COURT: And what was that school?

THE WITNESS: This, Your Honor, was in 19—in February, 1941.

THE COURT: That was when you were attending for the second time?

THE WITNESS: That is right.

BY MR. KEENEY:

Q Now, Your Honor has just made a point. You were attending a National Training School for the second time. How did this school differ from the first National Training School you attended?

A It was a, it was the National Training School under the supervision and sponsorship of the Communist Party. (tr. 132) The highest school that the Communist Party can afford for a limited number of its high functionaries.

whereas, the 1930 school was a National Training School of a different type that was organized by the National Hungarian Bureau of the Communist Party, and there were all types of National Training Schools organized either by a National School or by some subcommittees of the National Committee, but this was the class under the charge of the National School Director himself, Pop Mindel.

These classes, these schools were known as the highest Communist Party Schools in the United States.

Q Did you pay tuition at this school, Mr. Lautner?
A No.

Q Do you know whether or not any other students paid tuition?

A No, no one paid tuition in this school.

Q Did you receive any money for expenses?
A Yes, we all received money for expenses.

Q From whom did you receive the money for expenses?
A From the National Office of the Communist Party, the assistant to the National Treasurer of the Communist Party. Every Saturday we got our allowance. He was known as Benson, and Black, and Kitsos. He went under different names.

Q But he held the office?
A Assistant to the National Treasurer, who was William Weiner at that time ,W-e-i-n-e-r.

(tr. 133) Q Now, Mr. Lautner, how many hours a day did you attend this school?

A The day was broken into three parts. We had a full class that lasted from nine to about one in the morning, and then we had a group session from—

Q That is nine o'clock in the morning until one o'clock in the afternoon?

A Yes, sir. Then we had a group session anywheres from 2:30 or three o'clock to about 5:30 or six o'clock every day. Then in the evening research and preparations of papers, home work, for the next day's class.

Q How long did this continue?

A From the beginning of February to the first of May, I think. The class finished just about the day before the first of May, in 1941.

Q Mr. Lautner, did you have any position at this school?

A I was secretary of the school.

* * *

(tr. 134) Q Now you say this individual, Pop Mindel, was the Director of the School, in addition to that did he have any position in the Communist Party?

A Yes, he was the School Director of the cadre developing or personnel developing in the Communist Party.

* * *

(tr. 148) Q Mr. Lautner, in substance, what did James Ford teach at this school?

A Well, the Party's role in the struggle for Negro rights, for equality in the North and equal opportunities in the North and self-determination in the South. In substance, these were the questions that were raised under his subject matter.

* * *

Q What were you taught with respect to self-determination?

(tr. 149) A Well, at that time the Party policy was that the Negro people in the South, especially in the Black Belt, which is a thickly populated Negro area, have the right to declare themselves as a nation and have a right to separate from the United States and become a free, independent Negro nation, and that was the Party policy at that time.

* * *

(tr. 150) Mr. Lautner, you referred to an individual by the name of John Williamson as having taught at the (tr. 151) school, I ask you with respect to Williamson the same question, did he hold any position in the Communist Party as of that time?

A At that time he was just released from being District Organizer of the Communist Party in Ohio, was drawn into the national leadership, and he was teaching in that school.

Q Subsequent to this time and during your membership in the Communist Party, do you know whether or not John Williamson held any other position in the Communist Party?

A Oh, yes.

Q What positions?

A He was considered on the key organizational specialist in the Party. He was Organizational Secretary during the, when I came back from the Army; he was Secretary of the Communist Political Association. At the '45 convention he was elected to the National Committee and became a member of the Secretariat of the National Committee, and around '47 there was a reorganization on the top, and he became Labor Secretary of the Communist Party and he held that position at the time I left the Communist Party.

Q I believe you said that he taught a course on the Communist Party; is that right?

A That is correct.

Q Would you tell us in substance what Mr. Williamson taught?

A Well, he dealt with the Party of a new type, as Lenin (tr. 152) envisaged the Communist Party, what it, what it should be, how it should give leadership and guidance in the everyday struggle in all phases of human relationships. However, that the Party, as such, being the vanguard of the working class, must have its roots in the working class, the Party must have a policy of concentration on basic industries, the quality of work, how it is determined in the Communist Party, the contributions of individuals as leaders or members of the Communist Party, what determines their activity, whatever they do, how does it bring closer the realization of the final objectives of the Party, the role of the Party and the system of the dictatorship of the Proletariat. The role the Party plays in creating subjective conditions. These are the subject matters that, these are the problems that John Williamson raised in, under the heading of the Communist Party.

Q Did he teach anything with respect to particular industries?

A Yes, basic industries that determined the volume of production, like steel, coal, transport, mining, in general, the rubber, where production is being done, where transportation plays a leading role in the process of production.

Q What did he teach in connection with the role of the Communist Party, the relation to these industries?

A That the Communist Party must be rooted in these

industries because these industries, the workers in these (tr. 153) industries represent the decisive sections of the working class whom the Party must win over for its program.

* * *

(tr. 153) Q Mr. Lautner, you said, I believe, that George Siskind taught a course on Marxism-Leninism at this school?

A That is right.

(tr. 154) Q How long did that course last, approximately?

A Well, that course lasted about three weeks. We had six days, a six day week, so we had about seventeen or eighteen—yes—thereabouts—sessions with George Siskind on Marxism-Leninism.

Q Do you recall what Siskind taught on the subject of Marxism-Leninism?

A Yes.

Q What did he teach?

A That—well, first of all, that Marxism-Leninism is the philosophy and theory of the working class; that it is a revolutionary theory, it is a revolutionary philosophy and when we went into various aspects of Marxism-Leninism, the theory of the state, the theory of strategy and tactics, the dictatorship of the Proletariat, the Proletarian revolution, the question of war, the question and the struggle against economism, many, many aspects of Marxism-Leninism.

Q Mr. Lautner, did you use any particular books or texts in connection with Siskind's course?

A Yes, we had a practically complete library there, what

was available in the English language, on Marxism-Leninism, the writing of Marx, Engels, Lenin and Stalin. We had the collected works, we had the selected works, we had the Little Lenin Library Series. We had additional material like these three books, a compilation of excerpts from the (tr. 155) classics on various topics and subject matters, like Strategy and Tactics, The Theory of the Proletarian Revolution, the Dictatorship of the Proletariat. We had the Decisions of the Sixth World Congress. We had the United Front by Dimitroff, D-i-m-i-t-r-o-f-f, and other material available in our study in this school.

* * *

Q Mr. Lautner, you mentioned three books as having been used in this course by Siskind. One was Strategy and (tr. 156) Tactics, as I recall, and the other, Dictatorship of the Proletariat, and the third, Theory of the Proletarian Revolution.

What, if anything, did George Siskind say with reference to these books?

A Well, first of all, he said it's a compilation of excerpts grouped around a certain key topic, and in our work to, in our home work, instead of looking through collected or selected works, what Lenin had to say, or in works of Stalin, or other volumes, we had a short-cut with these books to look up pertinent excerpts to strengthen our arguments in whatever topics we were assigned as to at home work, so it was useful in the school. It was used as tools in our work.

Q That is the three books were used for, as tools in your work?

A That is right.

Q Now, subsequent to this class in school, did you make any use of these books?

A Yes.

Q What use did you make of them?

A I made the same use of them in '47 and '48 in teaching Marxism-Leninism, made references to it, and urged the students to secure it, and to, in order to help them in their self-study, after they leave the classes.

Q Do you know whether or not these publications were (tr. 157) being used in the Communist Party as of about the time you left in January, 1950?

A They were used; yes.

* * *

(tr. 161) * * *

MR. KEENEY: I am reading from Strategy in various stages of the revolution.

Strategy determination of the direction of the main blow of the Proletariat at a given stage of the revolution. The elaboration of a corresponding plan of disposition of the revolutionary forces, the main and secondary reserves. The struggle to carry out this plan during the whole period of a given stage of the revolution.

BY MR. KEENEY:

Q Mr. Lautner, with respect to this passage I ask you whether or not George Siskind taught you concerning the applicability of this passage to conditions in the United (tr. 162) States at that time, namely, 1941?

MR. TAYLOR: Could I hear that question read back?

(The reporter read the question.)

MR. TAYLOR: Whether George Siskind taught? No further objection.

THE WITNESS: Yes. Yes.

BY MR. KEENEY:

Q What did he say concerning the applicability?

A Well, the applicability is in the fact that strategy is worked out for the whole epoch, for the whole era. This era is the era of imperialism and the decline of imperialism and the ascendancy of socialism. This era began approximately at the turn of the century and will last until socialism will be victorious throughout the world. The basic strategy is based on this concept and all other plans are subordinate to this basic objective, to this basic strategy, and all other plans are known as tactical plans in carrying out this main, basic strategy, this main, basic objective, so it's the over-all plan; all other plans are subordinate to this basic aim.

* * *

(tr. 163) * * *

Q Now, if the Court please, I'd like to direct a question to Mr. Lautner with respect to a passage found on page 48 of this same exhibit, and reading from page 48,

> The main task of contemporary Communism in Europe and America is to acquire the ability, to seek, to find, to determine correctly the concrete path or the particular turn of events that will bring the masses right up to the real decisive last and great revolutionary struggle.

* * *

(tr. 164) * * *

Q Mr. Lautner, with reference to this passage that I (tr. 165) have read, what, if anything, did Siskind have to say concerning it?

A Well, in reference to this particular passage, in reference to all passages that were read in the National Training School, that was one over-all statement, that Marxism-Leninism is applicable to the United States just as well than anywhere else in the world, that the United States is no exception, that the Communist Party of the United States thought any ideas of exceptionalism, that the United States is exempt from certain basic principles and premises of Marxism-Leninism, that, and that this was a long discussion in this class, that showing it, how Marxism-Leninism stands out in the light of some of the mistakes made by the American party from time to time adhering to such policies of exceptionalism, he pointed out the struggles under the Lovestone leadership which the Party was accused of having a theory of exceptionalism, taking certain exceptions to Leninism.

Lenin, himself, points out that at one time Marx envisaged the possibility that in such countries like the United States, or England, where there was no, no crystallized and hard bureaucracy developed yet in government, where there were no big standing armies yet, where the state apparatus was not autocratic, where there was semblance of democracy in practice, in the progressive stage of capitalism, there was a possibility that to bring about a fundamental (tr. 166) change in the economic, political and social structure could be achieved through an evolutionary process, but Lenin points out that the observations of Marx at the

time he made them may have been correct, and Lenin further stated that since the turn of the century and particularly the participation of the great powers in the First World War, a strong bureaucracy developed in both countries in the government apparatuses, large armies developed in these countries, and for that reason, and monopoly capitalism developed, and for that reason neither England nor the United States are any exceptions any more in the struggle to bring about a fundamental change through a revolutionary process in these countries.

So this concept that there is no American exceptionalism covers all basic principles of Marxism-Leninism, not only this passage alone.

Q Mr. Lautner, with reference to the principles that, two principles we read to you from this book, did you subsequently teach in the Communist Party with reference to those principles?

A The same principles as I announced here awhile ago were taught in '47 and '48. Particularly in '47, '48, in the light of Browder's mistakes of revisionism, when we made every effort to cleanse the Party from this exceptionalist concept once for all, particularly in '47 and '48, a very strong emphasis was laid in the struggle against manifesta- (tr. 167) tion of revising Marxism-Leninism like Browder attempted during the war.

Q If the Court please, I'd like to read from page 56 of this same volume, Government's Exhibit 13, and frame a question around it.

> The revolutionary will accept a reform in order to use it as a means wherewith to link legal work with illegal work, in order to use it as a screen behind which

his illegal activities for the revolutionary preparation of the masses for the overthrow of the Bourgeoisie may be intensified. This is what the revolutionary utilization of reforms and agreements in an imperialist environment means. The reformist, on the other hand, will accept reforms as a pretext for renouncing all illegal work, to thwart the preparation of the masses for the revolution and to "rest in the shade" of reforms that have been "bestowed". This is what reformist tactics mean. This is the position in regard to reforms and agreements under imperialism.

Mr. Lautner, at the 1941 school what did George Siskind say, what, if anything, did George Siskind say with reference to this passage, the principles contained?

A The same concept as I announced here before pertaining to all passages on Strategy and Tactics, on the Prin-
(tr. 168) ciples of Proletarian Revolution, on the Theory of the Dictatorship of the Proletariat, on all basic Marxist-Leninist principles that America was no exception, that reformism was the policy of the Second International, and that had nothing in common with Marxism-Leninism, and Marxism-Leninism only utilized reforms against, in the struggle for the improvement of working conditions, or for the working class, but did not stop right there. It went further beyond that.

They utilized these reforms to further the basic objectives of the Marxist-Leninist principles.

Q Subsequent to this school, did you, yourself, teach these principles in any Communist Party classes?

A That is right.

Q What did you teach in that?
A The same. In substance, the same.

MR. KEENEY: If the Court please, at this time I would like to read two short paragraphs from Government's Exhibit 15, Theory of the Proletarian Revolution, and likewise frame a question to the witness around the passage.

I am reading now from page 90 of Government's Exhibit No. 15 in a paragraph entitled, Main Types of Revolution in the Epoch of Imperialism and the Growing of the Bourgeois Democratic Revolution into the Proletarian Revolution. Subject head one.

(tr. 169) Struggle for the dictatorship of the Proletariat in the main types of revolution.

I am reading there under the following:

The variety of conditions and ways by which the Proletariat will achieve its dictatorship in the various countries may be divided schematically into three main types: Countries of highly developed capitalism, United States of America, Germany, Great Britain, and so forth, having powerful productive forces, highly centralized production with small scale production reduced to relative insignificance; and a long-established Bourgeois democratic political system in such countries, the fundamental political demand of the program is direct transition to the dictatorship of the Proletariat. In the economic sphere the most characteristic demands are expropriation of the whole of large scale industry, organization of a large number of states, Soviet forms, and in contrast to this a relatively small portion of the land to be transferred to

the peasantry, unregulated market relations to be given comparatively small scope, rapid rate of Socialist development generally, and of collectivization of peasant (tr. 170) farming in particular.

BY MR. KEENEY:

Q Mr. Lautner, did George Siskind discuss the principles found in the passage which I have just read?

A Yes.

Q Would you tell us what he said concerning that applicability to the United States as of 1941?

A Well, in substance, the same. The United States was considered a highly developed industrial country. As a matter of fact, a leading imperialist country, like Great Britain and Germany, and so forth, and a transition from capitalism to socialism was to be direct through the dictatorship of the Proletariat. There was to be no intermediary or transitory or provisional state apparatus or state structure and in contrast with that, in colonial countries, under the domination of monopolist capitalism, the revolutionary aim was towards a national liberation movement, a national indedepndence, which was a transition towards a socialism, a transitory form of government towards socialism.

But here again, that the United States was no exception to the basic Marxist-Leninist principle of direct transition.

Q Mr. Lautner, were you taught at the 1930 National Training School, that is the first one you attended—

A That is correct.

(tr. 171) Q —substantially the same with reference to the applicability of these principles to the United States?

A That is correct.

MR. TAYLOR: Your Honor, before he answers, could we have again who taught and when? I guess he said 1930.

THE WITNESS: 1930.

MR. KEENEY: All right.

BY MR. KEENEY:

Q Mr. Lautner, I ask you that question with respect to the applicability of these teachings in 1930.

A Yes, both.

Q Who taught you?

A Yes, both James Lustig on Leninism and John Santo on Decisions of the Sixth World Congress of the Communist International.

Q What did they say?

A The same thing in substance, no exceptionalism.

Q You use this term "exceptionalism". Would you explain to us what that is as it was explained to you?

MR. TAYLOR: By whom.

BY MR. KEENEY:

Q Mr. Lautner, was the term "exceptionalism" explained to you in these classes?

A Yes.

(tr. 172) Q By whom?

A By Siskind.

Q That's '41?

A Yes, '41, by Sam Carr, by Pop Mindel, by everybody, and I explained it just ten minutes ago.

MR. TAYLOR: I request that "everybody" be stricken and that the names alone remain in the record, Your Honor; said everybody taught him.

THE COURT: Ask him who he means by everybody.

BY MR. KEENEY:

Q Who do you mean by everybody?

A Everybody in the Communist Party, U.S.A., whoever opened his mouth against Lovestoneism and Browderism, taught, talked.

MR. TAYLOR: I ask that be stricken as beyond the knowledge of the witness.

THE COURT: Yes, let him specify as many as—just a minute—as many as he can recall.

BY MR. KEENEY:

Q Give us as many as you can recall who taught.

A For instance, in the leadership Foster, Dennis, Williamson, whenever the subject matter of Browderism came up, they all condemned exceptionalism.

Q And who are Foster, Dennis and Williamson?

(tr. 173) A They were Party leaders. Foster was Chairman of the Party, Dennis was General Secretary of the Party, John Williamson was Labor Secretary of the Party, and so forth, and so on.

Q I don't know whether we brought this out. Mr. Laut-

ner, but subsequent to this time did you teach these principles?

A That's correct.

Q What did you say in connection with them?

A In substance the same thing.

Q Mr. Lautner, I ask you whether or not a book entitled, Problems of Leninism, was used in connection with Siskind's course?

A Yes.

Q I ask you whether or not you recall my handing it to you yesterday, a Little Lenin Library volume series entitled, Problems of Leninism, by Joseph Stalin?

A Yes.

Q Is that the same?

A Same.

Q Subject matter to which you refer, same text?

A That's correct.

MR. KEENEY: If the Court please, at this time I'd like to read from Government's Exhibit No. 6, which is the (tr. 174) Problems of Leninism, page 19, a final paragraph on page 19, first paragraph on page 20 and frame a question around those readings.

I am reading from the exhibit in Chapter Four which is entitled, The Proletarian Revolution and the Dictatorship of the Proletariat.

THE COURT: You say that is No. 6?

MR. KEENEY: No. 6 in evidence; yes, sir.

Can such a radical transformation of the old Bour-

geois system of society be achieved without a violent revolution, without the dictatorship of the Proletariat? Obviously not. To think that such a revolution can be carried out peacefully within the framework of Bourgeois democracy which is adapted to the domination of the Bourgeoisie, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the Proletarian revolution.

BY MR. KEENEY:

Q Mr. Lautner, I ask you whether or not George Siskind discussed the principles which I have read to you.

A Yes.

Q At the 1941 class?

A Yes.

(tr. 175) Q With respect to those principles, what do you recall his saying?

A Well, these principles were in substance where the principles discussed and no exceptions were taken to it.

Q Were you taught concerning the applicability of these principles to the United States at that time?

A That's correct. Yes.

Q Subsequent to this time did you teach these principles in Party classes?

A That is correct.

Q Did you teach substantially as Siskind taught?

A The same; yes.

Q And when were these classes?

A 1947, 1948.

* * *

(tr. 177) Q Mr. Lautner, I will ask you whether or not George Siskind at this 1941 school discussed a concept known as Proletarian Internationalism?

A That is correct, yes.

Q Will you tell us what he said concerning Proletarian Internationalism?

A Well, in substance that, that the fundamental interests of the working class and all oppressed led by the Communist Parties throughout the world are identical. There is a community of interest amongst them and there should be and there must be a fraternal relationship between these forces: that if any group in any part of the world suffers a defeat and that is a defeat for the whole working class and for every Communist Party. This concept was in substance discussed, and that the fact that the highest form of solidarity, expression of solidarity of Proletarian Internationalism was the Communist International that gave leadership and guidance to all the Communist Party throughout the world, and we are bound by Proletarian internationalism and through the organization the Communist International, and that the decisions of the Communist International are made in the light of effecting the good of the whole, of (tr. 178) all working classes all over the world, and that Parties should aid each other, those Parties who have more experience in the class struggle, the richer experiences, should help and aid the weaker parties, as smaller Parties in their problem, solving their problems, and this type of a relationship is a wholesome and best relationship and must be maintained in order to succeed against imperialism, and this concept was discussed under the heading of Proletarian Internationalism.

(tr. 179) Q Did Siskind make any reference to the membership of the Communist Party of the United States in

the Communist International during this discussion?

A Yes.

Q What did he say with reference to it?

A In reference to that it was stated that the Communist Party of the United States withdrew from the Communist International the previous year because of Voorhis Act.

THE COURT: Because of what?

THE WITNESS: Voorhis Act.

BY MR. KEENEY:

Q What, if anything, did he say concerning the applicability of these principles that you have described of Proletarian Internationalism to the conditions of 1941 in the United States?

A It didn't make any difference at all, the withdrawal from the Communist International, because it was stated and it so happened I was at the September, 1940, convention when the Party was withdrawn from the Communist International, where Browder gave the report, and it was stated that the, this withdrawal was forced upon the Communist Party, and it in no way altered our position on (tr. 180) Proletarian Internationalism or the applicability of the basic principles of Marxism-Leninism in relation to the C.P.U.S.A.

Q You say Browder gave a report on this subject to the Communist Party in convention of 1940?

A Yes.

Q Who was Browder at that time?

A Browder was the General Secretary of the Communist Party.

* * *

(tr. 188) Q Mr. Lautner, you said that an individual by the name of Sam Carr taught at the school. Did you tell us what his subject matter was?

A Yes, the History of the Communist Party of the Soviet Union.

Q Did he use any text in connection with the class?

A Yes, we used all the material that I previously stated, plus the History of the Communist Party of the Soviet Union, a book.

Q Mr. Lautner, would you tell the Court and jury what you recall in substance, what you recall of Carr's teaching (tr. 189) on the subject.

A Well, in substance we studied the growth and development of the Communist Party of the Soviet Union, Bolshevik Party, the economic and social conditions in Russia, and, in the, prior to the revolution what were the forces at play in the prerevolutionary era around the turn of the century, how various types of movement developed in Russia, like the Narodiks, N-a-r-o-d-i-k-s, of various types of social movements in Russia, how the seed of socialism were brought into Russia, by whom, how a Socialist, how a movement, working class movement developed on the basis of Socialist principles, how this movement later on split into two branches. One was the so-called Menshevik Branch and the other branch was the Bolshevik Branch. One was for reforms and the other one was for revolution. The role of the Bolshevik Party in the, in gaining the hegemony over the Russian working class, and influence among the peasantry against the S.R.'s, the Social Revolutionaries, the revolution itself in 1917, the Bourgeois Revolution headed by Kerenski, the failures of that leadership, how the Bolsheviks captured power in 1917, fall, and the line of the Bolshevik Party after the revolution, the establishment of the dictatorship of the Proletariat, the various prolemics in the course of

these developments between outstanding spokesmen within the Bolshevik Party and this other group, this was in sub-
(tr. 190) stance the subject matter studied in Sam Carr's class.

Q Now, as I understand your testimony, Carr referred to a difference between the Bolsheviks and the Mensheviks?

A That is correct.

Q I ask you whether or not he indicated whether the Communist Party in the United States would pattern itself after either of these groups?

A Well, the Communist Party of the United States patterned itself on Lenin's concept of a Party of a new type which the Bolshevik Party was, a monolithic party, a party that had professional revolutionaries, a party in which there was democratic centralism, a party in which there was unity of will to act as one, a party in which there was discipline, a party which had a single-minded purpose, had of itself a task ahead of it, a party which recognized the leading role of the Bolshevik Party of Russia as a victorious party which already succeeded, which went through a revolution and captured power.

In that sense the Party; yes, did pattern itself on the Bolshevik Party.

Q Did you discuss the 19— I ask you whether or not Carr discussed the 1917 revolution in Russia?

A Yes.

Q Did he tell you whether or not there was more than one revolution in Russia in 1917?

A Well, we knew that already, but we discussed it.
(tr. 191) There was a Bourgeois Revolution in 1917 which overthrew tsarism, that Bourgeois Revolution—

* * *

(tr. 192) MR. KEENEY: If the Court please, Mr. Lautner, at this time would you tell us what you were taught in substance in connection with this class by Sam Carr on the History of the Communist Party of the Soviet Union?

THE WITNESS: Yes. What was taught, what I described just a while ago, the history and the development of the Bolshevik Party in Russia, the history and the development of social conditions in Russia, class relationships, (tr. 193) how the Bolshevik Party captured power in 1917 from the, from the Bourgeoisie under the leadership of Kerenski, what kind of a party the Bolshevik Party was, how it stood up in various crucial times in the course of the revolution, how it smashed the power of the Bourgeoisie in that country, how it dealt with the peasantry; all these problems were discussed and studied under the leadership of Carr in that class.

BY MR. KEENEY:

Q Well, was there a discussion with reference to the fact that there were two revolutions in Russia?

A There was.

Q In the course of that discussion was it brought out who participated in the first revolution?

A There was.

Q And on the basis of that discussion would you tell us who participated?

A On the basis of that discussion it was discussed that the Bourgeois Revolution was headed by social reformists who gained control over the dissatisfied masses, who were war-weary, who suffered because of it, of the series defeats by Russian Armies, because of lack of food and lack

of—there was just a war-weariness and Kerenski and the social revolutionaries, the Mensheviks, the Cadets, the Ca- (tr. 194) dets meant the Constitutional Democrats—these forces unitedly succeeded in overthrowing tsarism, and they were in the process of consolidating their power. This defeat of the tsarism came about in February, 1917. By November, by November the same year the Bolsheviks captured power from the Constitutional Democrats, from the Mensheviks, from the S.R.'s under the leadership of Alexander Kerenski.

Q Let me ask you this, Mr. Lautner. During your discussion was it brought out what type of government was set up in February, 1917, in Russia?

A A liberal form of government was set up under Kerenski's leadership. However, according to the History of the C.P.S.U., this liberal form of government was for a continuation of the war and some other parts of their program that the Bolsheviks took exception to. It was to tend to stabilize it and bring about the ascendancy of capitalism in Russia, and the Bolsheviks were against this regime.

At one point, in around April, there was a possibility, while the Bolshevik Party was still a very small group, to go along in a peaceful transitory period, but by the end of July, after a big demonstration in Petrograd, this approach was dropped and the Bolsheviks prepared from the July days on for the seizure of power, and by November, 1917, by force and by violence they succeeded in capturing the government, in capturing the state power in the main (tr. 195) industrial centers like Petrograd, Moscow and other places, and as they went along later on they succeeded also on the countryside.

Q The Bolsheviks seized power from the Kerenski Pro-

visional Government?

A That's correct.

Q Mr. Lautner, I will ask you whether or not in this course by Sam Carr on the History of the Communist Party of the Soviet Union, whether a concept, or concept known as the just and unjust war, whether these concepts were discussed?

A It was.

Q Would you tell us the substance of the discussion on just and unjust war as led by Sam Carr?

A Yes, that the Bolshevik or Communist concept of war is this: The Communists are not pacifists, that they are against war, but the Communists believe that there are two types of wars. There are just wars and unjust wars. The Communists support just wars. Just wars are national liberation movements where the Communists will support the aspiration of a people to become independent. They will support that kind of a war.

The class struggle itself is a just war and the Communists support that, but the Communists will not support a war between imperialist countries or a Communist will not support a war in any, in which an imperialist country is trying to subjugate a smaller nation or a, an oppressed people. (tr. 196) In that type of war the Communists will fight against the imperialist even if that, and much more so, if that imperialist country happens to be the country in which these Communists work and live.

Q Mr. Lautner, while this class was being conducted, was World War II going on?

A Yes.

Q Was there any discussion of into which category World War II fell?

A At that time, in 1941, spring, the characterization of the war was that it's an imperialist war, and the Communists did not support that war at that point.

* * *

(tr. 200) Q All right. Mr. Lautner, will you tell us now whether there was a change in the Communist Party?

A Yes, there was a change.

Q What was the change?

A The change was that on June 22, 1941, the Soviet Union was attacked by Hitler's forces and the character of the war with that changed from an imperialist war, the war over night became a just war, at that particular point; that was the substance of the announcement. Later on there (tr. 201) were some other discussions after the war how to characterize the whole period of the war. There were some differences there, but at that time it was changed from an imperialist war to a just war.

THE COURT: Well, did I misunderstand you? I thought you said a few minutes ago that in 1942 World War II was labeled an imperialist war.

THE WITNESS: In 1939, 1940 and up to June 22, 1941.

MR. KEENEY: For the purpose of clarification, Mr. Lautner, when was that school held?

THE WITNESS: This school was held in the spring of 1941, February, March, April, and it ended on May 1st.

BY MR. KEENEY:

Q It was held prior to June 22nd, 1941?

A That's correct.

* * *

(tr. 222) Q Mr. Lautner, in 1945 did you attend any conventions of the Communist Party?

A 1945.

Q Yes, sir.

(tr. 223) A Yes.

Q What convention or conventions was—

A That was the emergency convention of the Communist Party. I think it was the fourteenth convention, or thirteenth convention.

Q Fourteenth what?

A Thirteenth convention.

Q Of the National Communist Party?

A That's right.

Q Prior to that did you attend another convention?

A Yes.

Q What was that?

A In '36 in '38, '40 and '42, there are two conventions in '40. There was a special convention called about two months after the regular convention in 1940.

Q In 1945 prior to attending the National Convention, did you attend another kind of convention of the Communist Party?

A Yes, the New York State Convention of the Communist Party.

Q In what capacity did you attend the National Convention of the Communist Party in 1945?

A As a Party leader and a returned veteran, as a fraternal delegate.

Q Did you have any function at the convention?

(tr. 224) A Yes, to attend all the sessions, to take part

in the convention, and also took certain assignments from J. Peters, who was in charge of security of that convention.

Q What assignments were you given by Peters?

A The assignment was to keep out of the so-called—there was a room where the technical staff was working, and there—where the leading comrades gathered for discussion, to keep everybody who had no business in there out of that place.

Q Was this convention open to the public?

A No.

Q Was it open to all members of the Communist Party?

A No.

Q To whom was it limited?

A It was limited to about 110 participants, from delegates who came from all parts of the United States.

Q Was there a main report given at this convention, Mr. Lautner?

A Yes.

Q And who gave it?

A William Z. Foster gave the main report.

Q Who was William Z. Foster at that time?

A William Z. Foster at that time was a member of the Executive Board of the Political Association.

Q Now, would you tell us in substance what you recall (tr. 225) William Z. Foster saying in this main report?

A Well, in substance his report dealt with the revisionists mistakes of Earl Browder under the convention to reconstitute itself into Communist Party, and projected certain corrective measures for the reconstituted Communist Party. This was in substance his main report.

Q What were the corrective measures projected?

A By reconstituting the Party, to go back to the basic principles of Marxism-Leninism, and to go back to the revolutionary principles of Marxism-Leninism.

Q Did he make any reference to the so-called classics of Marxism-Leninism?

A He did.

* * *

(tr. 228) Q Mr. Lautner, did an individual by the name of Eugene Dennis give a report at the convention?

A He did.

Q Who was Dennis at that time?

A Dennis at that time was a member of the Executive Board of the Political, Communist Political Association.

Q Did he make any reference to the so-called classics?

A He did.

Q What reference did he make?

A The same reference, to go back—let's go back and study the basic classical works.

Q Who should go back and study?

A The Party membership, to better understand the basic principles of Marxism-Leninism.

Q Do you recall whether or not Dennis said anything else at the convention?

A No, I have no recollection.

Q I ask you whether or not Dennis discussed the reconstitution of the Party in itself?

A Yes.

Q What did he say?

A I recall he took the responsibility for what happened (tr. 229) under Browder's leadership. He took the personal

responsibility for the dissolution of the Party in the South, and he made a pledge that he will do everything in his power to see that the Party will be reconstituted as speedily as possible in the Southern States.

Q Did he urge that the convention take any action with respect to reconstituting the Party in the Southern States?

A Well, the convention did take an action for the reconstitution of the Communist Party in the South; the convention did take that action.

* * *

(tr. 230) Q Mr. Lautner, you have made reference previously in this trial to an individual by the name of John Williamson. Did he make a report at the convention?

A Yes.

Q What, if any, position did he hold in the Party at the time he made the report?

A At that time he was National Secretary of the Communist Political Association, and in the convention he was Chairman of the Constitution Committee.

Q And what report did he give?

A He gave the report for the Constitution Committee on the Constitution to be adopted by the 1945 Convention.

Q Will you tell us what you recall of the report on the constitution as given by John Williamson?

A Yes. On the constitution—well, he had two reports. He had a general report. Then he had a report specifically on the constitution to be adopted. He read the constitution section-by-section, and there was a discussion on each section of the constitution as it was presented by him. After (tr. 231) the discussion on the constitution section-by-section, there was a discussion on the constitution as a whole, and a vote on the constitution as a whole.

Q Do you recall a discussion on the floor with respect to the preamble of the constitution?

A Yes.

Q Do you know whether or not questions were asked from the floor with respect to the preamble?

A There was.

Q Do you recall a particular question?

A Yes.

Q What was it?

A When he read the preamble, that was the first section that he read, and there was a discussion on that preamble. One of the delegates from the New York delegation got up and asked Williamson that where in that preamble is the dictatorship of the proletariat. Instead of Williamson, Dennis got up and answered that, "That is in there. Even the blind can see it."

Q Subsequently was the constitution, was a constitution adopted?

A Yes.

Q At this convention?

A Yes.

Q In addition to the adoption of the constitution were (tr. 232) any Party programs adopted at this convention?

A Well, the resolution contained—yes, the resolution was adopted which outlined the task for the Party and in the next coming period. The very title of the resolution was The Present Situation and the Next Task.

Q First of all, let me ask you whether or not there was a decision to change the name of the Party or the group?

A No.

Q Was it Communist Political Association Convention?

A There was only one vote in that convention. The vote was to reconstitute the Communist Party. There was no vote taken to dissolve the Communist Political Association. There was only one vote taken to reconstitute the Communist Party, and that vote was taken with the constitution, when the Constitution Committee Reporter, John Williamson, reported, when the constitution was adopted and voted upon, the Communist Party was reconstituted with that constitution.

Q What additional programs were approved by the convention, if any? Let me ask you specifically whether there was a discussion of a re-education program.

A No. You see, once the resolution, The Present Situation and the Next Task Ahead was adopted out of that program, out of that resolution, a three-pronged program of activities in the Party after the convention, that three-pronged program was the reorganization of the Party, the (tr. 233) reorganization of the reconstructed Communist Party. The re-education of the Party membership, and a developing of a concentration policy on basic industries.

* * *

(tr. 243) Q Now, Mr. Lautner, you testified that at the 1945 convention there was a discussion about a program of re-education in Marxism-Leninism.

A That is correct.

Q Was such a program adopted?

A Yes.

Q Did you take any part in implementing that program?

A Yes.

Q Do you know on the National Level what action was taken to implement this re-education program?

A The National Educational Commission set up a program for all kinds of classes, for classes for beginners, for classes for intermediary study, and classes for advanced study, National Educational Commission prepared numerous outlines to guide instructors in it, in the work, in this work, in educational work, and I think Max Weiss, the (tr. 244) National Education Director at that time, gave a report outlining the work of the National Educational Commission and a proposal from this Educational Commission to the Party.

Q What is that? Was Weiss' work in this regard published? Do you know?

A Yes, it was published in Political Affairs.

Q Political Affairs. Do you know approximately when?

A Well—

Q Do you know what year?

A '46 or somewhere around there. It was after the, after the reconstitution convention, months afterwards.

Q Mr. Lautner, you referred to the National Education Commission preparing outlines. Do you have in mind a particular outline?

A Well, there was one outline that I know of that I used, also as one of my guides in teaching, which was published by the National Educational Commission.

Q Did you receive a copy of this?

A I had numerous copies. I got one from the New York State Educational Director. Then I got some up in the stock room on the ninth floor. I had quite a number of them. Then New York State reproduced that outline for instructors in the New York State Program.

Q You said one of the copies you obtained you got on

the ninth floor, the ninth floor of what?

(tr. 245) A The ninth floor of the building which housed the National Committee of the Communist Party.

Q What is the ninth—

A The stock room was the room where printed material, Party material was kept.

* * *

(tr. 246) Q Mr. Lautner, I now hand you Government's Exhibit No. 25 for identification which purports to be an Outline on the Fundamentals of Marxism, and ask you if that is one of the outlines to which you referred in your testimony?

A Yes.

Q Is the outline to which you said you received a copy at Party Headquarters?

A This is the outline of which I had a copy; yes.

Q Of which you had a copy. Did you make use of this outline when you were a member and officer of the Communist Party?

A Yes, it was one of my guides in teaching.

Q Did you ever discuss this outline with educational officers of the Communist Party?

A Amongst the other; yes, amongst the other problems; yes, this outline, too.

Q Do you recall any particular educational officers of the Communist Party with whom you discussed this?

A Yes, well, I had numerous discussions with Alberto (tr. 247) Moreau, M-o-r-e-a-u, Moreau, he—e-a-u—that's right, who was the School Director of the New York State Organization of the Party, and whose office was right across from mine in the State Organization, and we had numerous discussions with teaching methods, and how to prepare out-

lines on various topics, headings on the classes of Marxism-Leninism.

Q Did you discuss this outline as for use in preparing Communist Party classes?

A Yes.

* * *

Q Mr. Lautner, did you personally use this outline in preparation for teaching of Party classes?

A As I said before, it was one of my guides in my preparations for teaching.

(tr. 248) Q Did you teach classes subsequent to the 1945 convention?

A Yes.

Q What were the circumstances surrounding your teaching these classes?

A Well, for one fact, I, in that period, around 1947, I had a—I was sick, and I was relieved of certain work and urged to help in teaching classes, and I undertook to teach intermediary classes in New York State. I had about three classes with Section Functionaries from New York Counties, Section Organizers, Section Organizer secretaries, Educational Directors, I had a number of classes in Industrial Sections. I had one class with the Bakers Section of the Communist Party. I had another class with Building Construction Workers of the Communist Party New York. I had a full-time class for a week with the Furriers Communist Party Functionaries in its Furriers Union, the Furriers Section of the Communist Party. I had a class with Painters up in the Bronx. These are some of the classes that I recall now that I undertook to teach, and my subject matter was Marxism-Leninism, Political Economy.

In all these classes except one, and I also teach Party Organization, Democratic Centralism, Party Structure, in all these classes except one, and that was the Furriers Class where I taught Marxism-Leninism and Political Economy, but not Party Organization. In the others; yes.

* * *

(tr. 257) Q Mr. Lautner, these classes you conducted as a member and leader of the Communist Party, were they supervised by anyone?

A Yes.

Q By whom were they supervised?

A Well, the classes that I was teaching in were supervised by the New York County School Director, Ben Semenowsky, and one class that I taught in the Furriers full-time class, school, the class was supervised by the Section Educational Director. I think his name was Dave Miller. M-i-l-l-e-r.

Q Did any of these individuals ever attend your classes?

A They were right in the class, while I was instructing in the class.

Q In your discussion with Alberto Moreau did you discuss the curriculum and books to be used in the classes?

A Yes. The curriculum and the books were worked out by the New York States and the New York County School Commissions and with every class we were to have an ample supply of classics for, available to the student in the class.

Q Mr. Lautner, I believe you told us that you taught Marxism-Leninism?

A That is correct.

(tr. 258) Q At some of these classes; is that correct?

A That is correct.

* * *

Q Mr. Lautner, in formulating your definition of Marxism-Leninism for your classes, what did you use as a guide, if anything?

(tr. 259) A I, well, I used as a guide the famous definition of Stalin on Leninism. You can find it in both Foundations and Problems of Leninism in which he says that Leninism is Marxism in the epoch of imperialism and Proletarian Revolutions, that it is the theory and practice of the Proletarian Revolutions in general, and that the theory and practice of the dictatorship of the Proletariat in particular. This, this definition by Stalin was my guide all along.

Q Well, I ask you if what you taught was substantially identical with what was taught to you at the 1930 and 1941 National Training School?

A Correct. Yes.

Q Now you defined what Marxism-Leninism is. Will you tell the Court and jury what you taught to your students with reference to Marxism-Leninism?

A The same thing as I was taught when I was a student in the National Training School. In substance, the same thing.

Q And what is that, Mr. Lautner?

A Well, Marxism-Leninism, and as a subject matter. I mean—

Q What did you teach with reference to the applicability of Marxism-Leninism to the United States?

A Well, here again the theory of exceptionalism was raised and that America is no exception to the applicability of the teachings of Marx, Engels, Lenin and Stalin to the (tr. 260) United States.

Q Did you discuss the Proletarian Revolution?

A That is correct.

Q Did you discuss the requisite conditions for the Proletarian Revolution?

A That is correct.

Q Would you tell us what the conditions are for, as you taught them and as they were taught to you, for the Proletarian Revolution?

A Yes. Yes. There are two sets of conditions necessary for a successful Proletarian Revolution. One set for conditions is objective and the other set of conditions is a subjective set of conditions. The objective set of conditions are a disruption in the smooth running, the state apparatus of capitalism, a war situation, a war, disruption in the economy of capitalists in the capitalist state, mass unemployment, wide dissatisfaction with the way things are, where the government of a capitalist state has to resort to all types of improvisations to maintain itself, where there are symptoms of a breakdown, where extra measures are necessary on the part of the government to maintain itself. These are one set of conditions.

Now parallel with that, if there is a strong Communist Party in that given country—not necessarily numerically strong. Numerical strength does not decide the strength of (tr. 261) the Party. The influence of the Party and leadership, and the ability to exploit a situation determines the strength of Communist Party; not numbers. One parallel with these objective conditions, if there is a strong Communist Party that has and enjoys the influence of the decisive sections of the working class in the basic industries, in addition to that, and enjoys the confidence of other sections of the workers, if also in addition to that, enjoys the

confidence of large sections of the so-called allies of the working class, like poor farmers, and in the United States the Negro people, and in addition to that, that the Communist Party is able to neutralize sections of the middle class, when those two sets of conditions exist, then the Proletarian Revolution will be successful.

Q Is that all that was taught to you, Mr. Lautner, at the 1930 and 1941 Training School in substance?

A That is correct.

Q Mr. Lautner, what is the relationship, if any, between the day-to-day activities of the Communist Party and the subjective conditions as it was taught to you?

Let it go at that. As it was taught to you.

MR. TAYLOR: I will object, Your Honor. I ask for specifications on when and where and by whom.

BY MR. KEENEY:

(tr. 262) Q Was this taught to you, Mr. Lautner?

A Yes.

Q When?

A All through the twenty years that I was in the Communist Party as a Party Functionary, my activities were always subject to a check-up and evaluation in every post where I was, and there was an evaluation of my work. The evaluation depended on a number of things. Whatever I did as a functionary in the Communist Party, how did it pay off in terms of new Party members, in terms of increased circulation of the Daily Worker and the Sunday Worker and Political Affairs, in terms of building so-called bridge organizations around the Party, in terms of how did

the tactics that we employed in a given district or section or wherever I was, how did my work bring closer the realization of the final aims and the final objectives of the Party?

Now in this sense tactics are evaluated, if they are tactics that do bring closer to realization of the final aims of the Party, are good tactics. If they do not bring closer to realization of the final aim of the Party, they are bad tactics. They may help here, there, but they did not add nor distract from the aims of the Party as a whole.

Q Then as I understand you the day-to-day activities of the Communist Party are directly related to the ultimate goal of the Communist Party?

(tr. 263) A Of course, they are.

Q Mr. Lautner, was the dictatorship of the Proletariat one of the subjects covered by you—excuse me—strike that.

With reference to that last question, did you answer that as you were taught—did you teach that as you were taught at the 1930 and 1941 National Training School?

A That is correct.

Q Now did you cover the subject of the Dictatorship of the Proletariat in any of your teachings?

A Yes.

Q When you taught this subject matter, did you teach it in—strike that.

Did you discuss the theory of the direct transition when you taught your classes on the Dictatorship of the Proletariat?

A Yes.

Q Previously had this been taught to you at any time?

A Yes.

Q Where?

Q Both in the 1930 schools and in the 1941 schools.

Q By whom?

A In the 1930 schools by James Lustig on Leninism, and by John Santo on the Decisions of the Sixth World (tr. 264) Congress, in 1941 by George Siskind, and in 1947, 1948 in my classes on the question of the struggle against revisionism, Browderism, exceptionalism, under the heading of that subject matter of Marxism-Leninism.

Q Mr. Lautner, what did you teach concerning the direct transition?

A I already, I think, explained that once this morning, that America, the United States was no exception, that here the transition is a direct one from capitalism to socialism via the dictatorship of the Proletariat. I already explained that this morning.

Q All right. Now, Mr. Lautner, did you teach a course on revisionism?

A It was part of Marxism-Leninism; yes.

Q What did you teach on revisionism?

A That it is a manifestation, a deviation which is one of the shortcomings of the American Party, and it has nothing in common with the fundamental principles of Marxism-Leninism. However, these revisionist errors, so-called deviations from, deviations to the right, crept up in our Party once before in 1929, and it led into the swamp of reformism, it led back to capitalism, support of capitalism. In substance, that is pointed out in Browder's revisionist errors. That was it in substance.

Q Mr. Lautner, when you were a student in the 1930 and (tr. 265) at the 1941 training school, was revisionism dis-

cussed.

A No. What was discussed was a manifestation of right-winged division. Right deviation in the Party during the Lovestone period.

Q Was Lovestoneism a revision of Marxism-Leninism?

A No, Lovestone didn't revise, try to revise Marx in the same sense as Browder did, but it was a right deviation. Lovestone's main mistake, was the overestimation of the strength of American capitalism in 1929, and on the basis of that bad policy, tactical policies, were part of Lovestone's program in that period.

Q What did you teach with reference to Browder's revisionism, Mr. Lautner? I think you described generally what Browder revisionism was.

A I already did that.

Q What did you ask the students to do in connection with your classes on Marxism, revisionism, what, if anything, did you ask them to do?

A Well, to fight against any manifestation of revisionism that would creep into the work of their branches or sections, or wherever they are. I—in substance that is it.

Q You asked them to study anything in particular?

A Yes, to study the classics, to study the documents around the 1945 convention, the Duclos articles, Foster's report, Williamson's report, Dennis' report.

(tr. 266) Q Are those the materials to which you refer, are they in any documents that are in evidence?

A It is in evidence here already; yes. In the pamphlets, the Struggle Against Revisionism and also in the September, 1945, Political Affairs.

Q Mr. Lautner, in the course of your teaching did you

discuss the principle of democratic centralism?

A Yes.

Q Had you been previous—had you been taught at the 1930 and 1941 National Training School with reference to democratic centralism?

A That is correct; yes.

Q Did you teach substantially what had been taught to you?

A Yes.

Q All right. Now what did you teach on the subject of democratic centralism?

A On the subject of democratic centralism my teaching was the monolithic nature of the Communist Party on the organizational structure: the freedom of discussion within the Party and the scope of discussion within the Party of the so-called freedom of discussion, and the Party's structure itself and Party discipline.

Q What did you discuss on Party discipline?

A Well, on Party discipline, that—that all Party mem-
(tr. 267) bers must adhere and carry out Party decisions to the best of their abilities, and even if they disagreed with a decision, or with a line of activities, they must carry it out nevertheless. They can raise their objections through proper channels, but the unity of the Party forbids any groupings or any dissensions, organized dissensions, that the Party members must adhere to the Party decisions and carry it out, and act and work in a disciplined fashion.

Q Mr. Lautner, in teaching on democratic centralism, as you gave it to your class, that documented anywhere, the substance of that teaching?

A Yes.

Q Where?

A In a number of places. There is, I think, in Foundations of Leninism.

Q Is that the exhibit in evidence here, sir?

A Yes. You will find one section there. I think it is the last section, the Party, by Stalin. Then—

(The witness was handed an exhibit.)

That is right. Here it is. Begins at the—it is Article 8, The Party, begins on page 107, and all the way through to 124.

Q Democratic centralism is discussed in there in connection with the Party?

A Yes. Then there is in the History of the C.P.S.U. (tr. 268) a reference to democratic centralism on the structure of the Party, what type of organization the Party shall be, where democratic centralism is raised.

Q Excuse me. That is this book?

A Yes, that is right. Then, in Peters' Manual on Organization there is a section on democratic centralism. Well, offhand these are it.

Q That is the document you identified here yesterday?

A That is right. Offhand these are some of the sources that I can make reference to, and possibly in Problems of Leninism also, where he discusses the system of the dictatorship of the Proletariat; in reference to the Party there, he may, he may raise the question of discipline in democratic centralism.

* * *

(tr. 275) * * *

Q Would you explain to the Court and jury, using the chart that is now set up in the courtroom, the manner in which you taught this course on Communist Party Organization during this 1947-'48 period?

A Yes.

Q Would you proceed?

A Shall I?

Q As you did in your classroom.

* * *

(tr. 276) THE WITNESS: The basic organization in the Communist Party is the Party Branch or Party Club. That is the organization to which every member of the Communist Party must belong. A Communist Party member must belong to a basic branch. He can be on top committees anywhere along the structure, but he must belong to a basic branch where he pays dues, and attends and carries out assignments for the Branch.

The branch of the Party operates in a community, in a small community, a number of blocks or streets. That kind of a branch of the Communist Party is known as a Community Branch or a Community Club. The members of that branch are mainly concerned with problems in that particular community, with issues that would be, would be picked up in that particular committee, whether they are economic or social issues, issues around which that Community Club could become an influence in that neighborhood, And gain sympathy and gain support for whatever (tr. 277) that club undertakes in that community.

If that Party Branch works in a factory, that basic

organization is known as a Shop Branch of the Communist Party. That Shop Branch takes up issues that would be to the benefit of the workers in that shop, issues which would endear that membership, Communist Party membership in that factory to the workers, issues that would give, would tend in the direction of the Party gaining support, an influence over the workers in that particular shop.

If the Communist Party in a given community or in a given town does not have enough Party members in a shop to form a club or a branch, but if in that particular industry a number of clubs in a number of factories or in a number of trades, similar trades, the Party has a sufficient number of Party members, they are organized into an Industrial Branch or into an Industrial Club.

I will give you an example. For instance, painters—well, painting shops are very small, but there are painters in the painting industry who work for various contractors. They would be drawn into an Industrial Club as painters or bricklayers would be drawn into an Industrial Club, or bakers would be drawn into an Industrial Club, or truck (tr. 278) drivers would be drawn into an Industrial Club, because there would hardly be any one particular trucking contractor who would have enough Communist Party members within that company to form a Shop Branch right there and then. Now these are the various types of branches.

The branch is led by a branch executive. The branch executive is elected by the branch membership. It is composed of a Branch Chairman or Branch Organizer, and a Branch Educational Director, a Branch Membership Secretary, Finance Secretary, Press Director, Group Cap-

tains and Literature Director, whatever other functions are necessary in that particular branch, and it does not mean, necessarily; that all these functionaries in a branch belong to the branch executives, but the branch executive is drawn out of these functionaries under the chairmanship of the Branch Chairman or the Branch Organizer.

Now there are a number of these branches in a larger section of a city or a county. These branches, Industrial, Shop and Community Branches, come together once in every two years, or once a year, and they organize a com- (tr. 279) mittee above themselves known as a Section Committee. A Section Committee is composed of the most qualified and most experienced communists elected from all these branches and this Section Committee gives leadership and guidance to all the branches under their supervision in their day-to-day activities. This Section Committee is elected by a Section Convention to which Section Convention these branches send their delegates. At the Section Convention the Section Committee is elected.

Now in a larger community like a city where there may be a number of sections, the same procedure is followed in electing a, either a City Committee or a County Committee. A County Committee may give supervision and guidance to a number of Sections, and through its Sections to branches in the lower organizations of the Party.

Above this is the District Committee, or State Committee of the Communist Party. Now the State Committee or District Committee of the Communist Party gives leadership and guidance in the day to-day activities of the Party in that given District or that given State Organization. In

the United States there were District Organizations of the (tr. 280) Communist Party which were composed of more than one State Organization, like the New England State of the Communist Party was one District, with Boston with its headquarters, or the California District which gave also leadership and guidance to Arizona and Hawaii, and, on the other hand, there were Districts where there were two Districts in one State because of the importance of the District, of the State. For example, in Pennsylvania there are two Districts of the Communist Party; one in Philadelphia, and one in Pittsburgh, and because of the manyfolded activities of the Communist Party in a given District, or in a given State, the Communist Party District Organization or District Committee or State Committee gathers around itself the most able, most capable Communist Party members in that State or in that District and assigns to these leading Communists various specialized functions pertaining to that State or that District. Such specialized functions are heading Legislative Committee of the Communist Party in that State, or heading the Literature Department of the Communist Party in that State, or its Labor Commission in that State of the State (tr. 281) Organization of the Communist Party, or the Youth Commission, or the Review Commission, the Negro Commission, the Women's Commission, the Veterans Commission, Press Circulation, Cultural Activities Commission, Finance Committee, Farm Commission, whatever necessary commission is needed in that State to accelerate Communist Party activities in all phases of human relationships.

Now the District leadership is also more centralized. When the State Committee or District Committee is elected within that larger body, State or District Committee, a

smaller committee is elected, a committee known as the Board, State Board, or District Board, and within the Board a Secretariat. A Secretariat is the centralized authority in that State, or District, carrying out the mandates of the State or District Committee in that particular organization.

The higher of the State or District Organization is the Executive Section, the Organizational Section, who organizes all these manifold activities and keeps every Party member in all over organizations busy carrying out the (tr. 282) Party activities. Now these State Organizations, and their top committees are elected once every two years at State or District Conventions. At these same conventions they also elect delegates to the National Conventions of the Communist Party.

Now the period of 1945-1948, the Convention at 1945 elected a National Committee of approximately fifty, fifty-three. It also elected a National Review Commission or Disciplines Commission at the 1945 Convention. The task and the duty of the National Committee was to carry out the mandates of that 1945 Convention. In order to properly do that, the National Committee had to organize and appoint various subcommittees of the most able and most capable Communist Party members available on National level to carry out the manifold activities of the Communist Party. Among such commissions at the National level were the Labor Commission. This Labor Commission, by the way, broke down into subcommittees, such subcommittees where the Steel Commission, Auto Commission, Commission on Mining, Textile Commission, Maritime Commission, all led under a group of Party leaders, headed by the Labor Secretary of the Labor Commission of the Com-

(tr. 283) munist Party, the Educational Commission, Negro Commission, Youth Commission, Veterans Commission, Women's Commission, Press Committee, Nationality Groups Commission, Legislative Committee, Cultural Commission, Farm Commission, National Training School Commission, Finance Commission, Publications Commission, and other temporary committees. From time to time, the above-mentioned commissions were strong committees working with the National Committee from convention to convention. The National Committee, in order to better supervise this work, organized an Organizational Committee. The Organizational Committee was headed by one of the leading members of the National Committee who saw to it that there is no conflict in time element and composition of personnel in the various commissions and outlined a work schedule and time schedule for all these commissions to function.

The National Committee also within itself elected a National Board. A National Board which a smaller active committee, that took care of Party problems in the day-to-day work of the Parties—the National Board within itself elected a National Secretariat, which was composed of three or four members up to 1947 when a reorganization (tr. 284) took place in the National Board, where a number of leading Party members were removed and a General Secretary and a General Chairman of the Party was elected in 1947 at one of the plenary sessions of the National Committee.

Well, this is in substance what I taught on the part of the structure, Party Organization in 1947 and the spring of 1948 in the National Training School where I taught Party Organization.

BY MR. KEENEY:

Q Mr. Lautner, would you mind pointing out to the Court and the jury the various positions you held in the Communist Party, where they fit into that chart?

A Yes. Well, I was Secretary Organizer. I was a District Organizer. I was a member of the Nationality Groups Commission. I was a member of the National Review Commission and I was a Secretary of the New York State Review Commission.

These are some of the functions that I had, and I was also at one time head of one of the Nationality Groups, specifically the Hungarian National Bureau of the Communist Party, supervised by the Nationality Group Commission of the Communist Party.

Q Mr. Lautner, while you're there, would you also (tr. 285) point out where the North Carolina State Organization of the Communist Party and the Chairman of that Organization fits into that chart?

A Well, to my understanding, if I am not, I know the District Organizer around 1947-'48, Bernie Friedlander, who was a District Organizer of two states over here—I may be mistaken, but North and South Carolina was one District, if my recollection is correct. Now they would fit in here. This is the District Organization and each State would be part of this District Organization.

* * *

(tr. 286) Q Mr. Lautner, in describing the organizational setup in the Communist Party you made reference to election procedure to be followed at the various levels. During your membership in the Party was this election

procedure followed universally?

A In some instances, no. In other instances—no, it depended on what was more suitable for the Party leadership.

Q Now in connection with your own selection for position were you always elected to the positions you took or you assumed?

A No, not necessarily. No.

Q Mr. Lautner, with reference to the chart now, that chart covers the period, as I understand, from 1945 until 1948?

A That is correct.

(tr. 287) Q Now you left the Party in January of 1950; is that not correct?

A That is correct.

Q Would you describe—I am going to ask you a question with reference to any changes in the Party structure between 1948 and the time you left in 1950—were there any changes?

A Yes. What change?

Q What changes were made?

A One obvious change, one big change was that on the National level the National Review Commission, was not elected at the 1948 Convention. Instead of that it was appointed by the elected National Committee of thirteen.

Q Is there any other change, Mr. Lautner?

A Well, down in the Branch, there on Branch level, there are changes all the time in leadership and whatnot, but the structure as such, was the same when I left the Communist Party, with the execption of that change on the question of election of the National Review Commission in 1948. It was appointed.

Q Excuse me. Maybe I didn't hear you correctly. Was there any change in the membership of any of these groups?

A I wouldn't know.

Q Was there a change in the membership of the National Committee?

(tr. 288) A Yes, as far as numerical change is concerned, numerical composition. In 1945 a National Committee of fifty-three was elected and in 1948 only thirteen were elected to the National Committee.

MR. TAYLOR: Thirty or thirteen?

THE WITNESS: Thirteen.

BY MR. KEENEY:

Q Were the changes you have outlined, do they represent the Communist Party Organizational Structure from the time of the 1948 Convention until the time you left the Party?

A With, to my knowledge, with this additional change, the reduction of the National Committee in 1948 was also followed by the key State Organizations. I know New York did, by the reduction of the New York State Committee after 1948.

* * *

(tr. 298) Q Mr. Lautner, during the time you were in the Communist Party were you ever a State Organizer?

A Yes, District Organizer or State Chairman and State Secretary; yes.

Q What were your duties?

A My duties were to give leadership and guidance to the membership in my particular district, to develop their, and deepen their understanding of Marxism-Leninism, to supervise the activities of the various leading cadres, or leading personnel in that particular district, to develop Party activity and carry out the policies of the Communist Party in that particular district, to build the Party membership in that district, to represent the Party's National Committee in that particular district, to be the phase of the Party in that particular district, and to assure of faithfully and loyally carrying out the mandate of the National Committee in that particular district. These are in substance the (tr 299) tasks that I were confronted with when I was a District Organizer.

Q When you were a District Organizer, what was the relationship between you as a District Organizer and the National hierarchy of the Communist Party?

A I was the representative of the National Committee in my particular district. I consulted with him, with the National Committee, I attended National Committee meetings, I was called into conferences into the National Office frequently. I was in constant communication with them, was a close relationship with the National Committee.

Q During your membership in the Party were the qualifications for the State Chairman and District Organizer ever discussed?

A Well, I was a State Chairman. I was a District Organizer. These were the qualifications.

Q Were the qualifications for a State Organizer, State Chairman ever discussed at the Training Schools you attended?

A It may have been. I know one qualification was not discussed in my presence at any time.

Q What was that?

A Whether the National Committee had any confidence in my loyalty to the National Committee. They never discussed that with me. I was an individual and I was at the mercy of their judgment.

(tr. 300) Q Well, you were a District Organizer. How did the National Committee exercise supervision over you?

A Through checking my activity in the District. I had to give periodic reports of my activities. National Committee members came into my District to check the activities of the District, of the District, and my work showed up in increased membership, in circulation of the Daily Worker, of building all types of organizations around the Party. My Party activity in the trade union movement, how was this activity reflected in State C.I.O. or A.F.L. conventions. These were the criteria by which I was judged whether I am a good or a bad District Organizer.

Q What was the criteria for determining; do you know what the criteria was for determining whether you were a good or a bad District Organizer?

A Well, let me see. Oh, yes. In 1940 in the National Convention, in 1940 in the National Convention I was elected to the Presiding Committee of the convention by exclamation—acclamation, by acclamation I was put on the Presiding Committee because of the work that I was doing in West Virginia at that particular time.

Q You were put on a Presiding Committee because of your work?

A That is correct. That was a form of recognition of my work in the State of West Virginia at that time.

(tr. 301) Q Was the loyalty of a State Chairman or Party Organizer to the National Committee ever dis-

cussed?

A Not with me personally, but if they have no confidence—I know in others, they had no confidence, they were removed.

Q Confidence in what, Mr. Lautner?

A Confidence in properly representing the National Committee in their respective district.

Q Is that a lack of ability you're speaking of?

A It may be a combination of things.

Q Of what?

A That may be lack of ability, it may be creating a bad impression about the National Committee in the district in which he works. I saw that happen, too. Removal of District Organizer because the District Organizer started factional activities against the National Committee. That was Sam Dunn in Philadelphia, and other reasons, personal behavior also entered into the picture of a quality and whether the National Committee has confidence in the individual.

* * *

(tr. 302) * * *

Q Well, are you able to answer that question without answering—can you do it?

A May I have that question again?

(The reporter read the question.)

MR. TAYLOR: I have no objection further than for the witness telling what his experiences were, but not to general statements on what that experience was.

THE COURT: Well, the question states the basis as

experience, does it not?

THE WITNESS: Yes. Well, the answer would be a—I would have a negative approach where I saw that the respective District Organizer lost the National Committee confidence and was removed because of the certain factors—

MR. TAYLOR: Well, it seems to me the witness ought to state when those occasions were.

* * *

(tr. 306) * * *

Q Mr. Lautner, based on your observation in the Communist Party is a loyalty to the National Committee of the Communist Party a requisite for continuance in State and National office in the Communist Party?

* * *

(tr. 307) * * *

A That is a prerequisite, that the National leadership has confidence in the person's loyalty who represents them in the various Districts.

* * *

(tr. 319) * * *

Q Mr. Lautner, I believe at the end of the court session yesterday you had made reference to a program of industrial concentration adopted at the 1945 National Convention, did you not?

A That is correct.

Q Did you participate in the putting of this program into effect?

A Yes.

Q To what extent did you participate? First of all, would you tell us the first contact that you had with this industrial concentration program after the 1945 Convention.

A The first phase of it was the organization of Industrial Branches in Industrial Sections right after the Reconstitutional Convention. At that time I was asked to organize all the building trades members of the Communist Party in New York City into an Industrial Section, and that was my assignment for awhile.

Q Who asked you, Mr. Lautner?

(tr. 320) A 1946, the New York State Labor Secretary of the Communist Party, Hal Simon, S-i-m-o-n, and—

Q. In giving you this assignment, what, if anything, or asking you to take this assignment, what, if anything, did Simon say?

A Well, he told me to get in touch with the personnel who were in charge of the Party's registration at the end of the 1945 year, and around February of 1946, I sifted through all the registrations, all the County and picked out in every County in New York City those Party members that were either painters or plumbers or electricians or carpenters or bricklayers and called them, group-by-group, and trade-by-trade, together to a meeting, and organized them into Industrial Branches. And then I got myself a Section Committee around that Industrial Section, and I functioned with that Section up to about, for about a year.

Then the second phase of it was—

Q Mr. Lautner, the first phase, if you may stay there a minute—did Simon say anything with respect to whether

or not the Party members should operate openly as Party members?

A Wherever possible; yes, to operate openly, but where it was not possible, or it was to the disadvantage of the individual or the Party Branch, it was not advisable to work openly, particularly in an A.F. of L. Union like the Electricians Union, in the Painters Union; yes, because (tr. 321) there the Party was still in control of District Council No. 9 of the Painters Union in New York City.

Q In your discussion was any publication recommended to you for your reading, in your discussion with Simon, prior to your taking up your activities?

A At that particular time; no.

Well, there were Williamson's reports to the 1945 Convention and there were a lot of conferences and discussions on beginning to involve a concentration policy, and I have no recollection at this time of any particular material that I can make reference to.

Q Mr. Lautner, you were referring to the second phase of your activity. Did there come a time when you ceased to be active in these building trades area?

A Yes, yes. That was, I think, January or thereabouts, in 1947. I was put on a committee to reorganize completely New York County on a concentration basis, and I was functioning on that committee and we selected New York County as a transport concentration, and then later on I went into the Transport Region, the Concentration Region, to organize, reorganize the Region from its previous structure that we had there.

Q Was this a Planning Committee that you were a member of?

A That is correct.

(tr. 322) Q Was there a head of that committee?

A Yes, the Executive Secretary of New York County, Jim Tormey, was the head of this committee.

Q Now in addition to your activities on this Planning group, did you participate in the actual operating level?

A That is correct.

Q Would you tell us what you did.

A Well, my specific assignment was to go into Chelsea. That's the region of the Lower West Side in New York. It's from the Battery all the way up to about, oh, 53rd Street, to make a survey as to its docks, the railroad docks on the West Side, the teamsters' sheds, the Pennsylvania Railroad Station and Railway Express, to make a survey of physical location of these places, the possible forces that we can organize for concentration work in this Chelsea Region, and I worked at this aspect of concentration work from about January, 1947, to May, 1947. Then I was drawn out of there.

Q Did you have any—I wonder if you could describe to the Court and jury the methods, how you operated in this concentration group.

A Well, we had in that Chelsea Region a Maritime Industrial Section of the Communist Party. Alongside that Maritime Section of the Communist Party, Industrial Section, we also had a Longshore Concentration Section of Industrial Units that were work—were composed of Party (tr. 323) members actually working on the docks.

Now to make the work of the Maritime Industrial Section and the Longshore Industrial Concentration Section more effective, we had to implement from the Community

Branches from that particular area people —we had to integrate people into special groups to concentrate on the families who lived in that neighborhood of dock workers and maritime workers, sailors within the Maritime Unions, so that when issues are raised by the Industrial Sections on the docks around the ships, these Community Concentration Groups can raise similar issues with the housewives, with the wives and families of these particular workers, so that when the husband comes home after work, he can understand what his wife is talking about, and she can understand what he is talking about on the docks; to coordinate their thinking processes along class struggle lines so that the Party can reach, build its influence in that Concentration Region. And that was my task.

This implementation to concentrate on the families in the neighborhood of these Industrial, where these Industrial areas were, and from the Battery all the way up to about 33rd Street.

Q Do I understand the industrial areas in which you concentrated were in transport?

A Transport. They were truck drivers, longshoremen, stevedores, sailors, Railway Express workers and railroad (tr. 324) workers at the Pennsylvania Station and also a further, up around 70th Street; it reached all the way up there. There was a freight yard of the New York Central Railroad Company on the West Side.

Q Now, Mr. Lautner, in the many deliberations of this Plan Committee with respect to Industrial Concentration of which you were a member, were there discussions as to the purpose of concentration in transport?

A Yes. That transport industry was designated by the National Committee for us as the major concentration for

New York City at that time.

Q Well, did you discuss what the purpose of concentration in transport was?

A Well, once we have a decisive influence among the transport workers, the Party would be in a very good position amongst the transport workers in respect to the final aims and objectives of the Party.

Q Mr. Lautner, in order to obtain your objectives in the transport area, what, if any, action was, were the Party members urged to take?

MR. TAYLOR: May we have that specified further? Urged by whom and when, please?

BY MR. KEENEY:

Q All right. Do you know whether any action was urged by Party leaders with respect to this transport concentration?

(tr. 325) A Of course. We urged the Party membership every day.

Q Who did it, Mr. Lautner?

A Well, I also was urged by the higher leadership, by the State leadership, by a—and the County leadership, and I urged. We had three sections in there. The Section leadership, the membership in day-to-day activities, leaflet distribution, house-to-house canvassing, making new contacts, getting acquainted with people in the block, special list on certain nationality groups, like Dalmatians, Yugoslavs, who were longshoremen in an area over there to pay special attention to Greek seamen in the area over there. I mean these were the day-to-day activities that were urged upon

us and we, I urged the Party membership along these lines.

Q In this connection were any Party members directed to take positions in certain industries?

A Well, in this particular area; no.

* * *

(tr. 371) * * *

Q Now, Mr. Lautner, after the 1948 National Convention of the Communist Party, did you have any contact with Robert Thompson?

A Yes.

Q Did you have any contact with him?

A Yes, I did. Why, I was in day-to-day contact with him in that period.

Q Did you have any contact with him with reference to a new program of the Party?

A Oh, yes.

Q When did this contact take place?

A This contact, there was a discussion, contact—I was —we were in the same office, I mean, in the same building, daily in contact. We had a discussion in, oh, about a week, week after the convention, shortly after the convention in 1948, the National Convention.

He told me to get a meeting place and he and Bill Norman and Hal Simon and myself will have a meeting to discuss certain security problems.

Q All right. Now who was Thompson at that time.

(tr. 372) A He was State Chairman of the New York State Organization of the Party.

Q Did he hold a position in the National Organization?

A He was a member of the National Committee.

Q And who was Bill Norman at that time?

A He was the Executive Secretary of the New York State Organization.

Q Who was Hal Simon?

A Hal Simon was Labor Secretary and—was head, the Review Commission.

* * *

(tr 373) * * *

Q Now, Mr. Lautner, did you subsequently have another meeting with Thompson?

A Yes.

Q When did that take place, approximately?

A The very next day we had an all-day meeting.

Q Where?

A On 20th Street near 7th Avenue in New York City in an apartment that belonged to a person by the name of Milton Baran, B-a-r-a-n.

(tr. 374) Q Did Thompson attend this meeting?

A Same four of us, Thompson, Norman, Hal Simon, and myself.

Q What, if anything, did he do an arrival?

A Well, he looked around. He went to the closet, clothes closet, he went to the washroom, he looked around all over, gave me a demonstration of his security consciousness.

Q Did he tell you what the purpose of the meeting was, Mr. Lautner?

A Yes.

Q What did he say the purpose was?

A Well, he, he was the person who opened up the dis-

cussion. He stated that at a recent meeting Foster, William Z. Foster, gave a report about his trip to Europe, and in the report there was one part of the report that is a problem for us to tackle. In his report Foster said that in his conversation and discussions with the International leadership abroad, it was the experience of the Communist Party in Europe that when they were forced to go underground, the experience was that there was a contraction of the membership of the Communist Party, Party about ninety per cent, that after the Party was declared illegal, about ninety per cent of the Party membership just disappeared, and it was a difficult task to organize about ten per cent of it into an illegal apparatus.

So on the basis of these experiences Foster suggested (tr. 375) that the Party leadership begin to think in terms of some kind of a parallel organization and to set up a parallel organization, and before any emergency situation develops to integrate about ten per cent of the party membership in such a parallel organization, an underground organization, and Foster also said that the best form of an organization and structure would be a three-system, one, two, three-system, and a type of organization that would function only in a descending way, that all instructions come from the top and all contacts would come from the top, and wouldn't go any, wouldn't go the other way; no contact from lower organization to up, to the organization on the higher level.

So on the basis of this report, Thompson said if our membership is approxmately thirty thousand now in the New York District, our problem is to integrate about ten per cent or three thousand of that membership in a, this kind of an organizational structure, and that we would have to

do it in a, in such a way that that ten per cent will be integrated that works in trade unions and in mass organizations and the membership integrated, the major criteria for integration would be their absolute devotion and loyalty to the Communist Party.

Then he drawed a picture, how it would work. He was drawing triangles over there.

Q Mr. Lautner, before you go into that, I would like to ask you a few more questions.

(tr. 376) You say Thompson said the, what he had in mind would be based upon the experience—

MR. TAYLOR: Is this a question, Mr. Keeney?

MR. KEENEY: I hope it to be, Mr. Taylor.

BY MR. KEENEY:

Q Thompson referred to the experience of certain European countries, did he not?

A Thompson referred to Foster's report to the National Committee in which the experiences of European Communist Parties were discussed.

Q The experience during what period of time, Mr. Lautner?

A Between the—let's see—between the first and second World Wars. The rise of Fascism and Hitlerism, that period.

Q Did he say whether or not the system that was discussed would be modeled on those systems?

* * *

(tr. 377) * * *

THE WITNESS: Well, I think I already said that that —we were to adopt a three-system, which was the experience of the Communist Party in Europe.

BY MR. KEENEY:

Q Do you know whether or not the Communist Party was successful in achieving power in any of these countries after World War II?

A Yes.

Q Was the Communist Party successful in achieving power in any of these countries after World War II?

A Yes.

Q Now, Mr. Lautner, you started to make reference when I interrupted you to something, some drawing being made by Thompson?

A That is correct.

Q And what was this? Would you continue and tell us what Thompson was doing?

A Well, he was drawing, he was drawing triangles on various levels and how it will break down and how many levels will we have by integrating approximately three thousand Party members, and it came to about seven levels. I think seven levels. Yes.

Q Mr. Lautner, did you ever reproduce the chart as drawn, reproduce these triangles as drawn by Thompson?

(tr. 378) A I did.

* * *

(tr. 381) * * *

Q Now, Mr. Lautner, using the chart that is now in evi-

dence as Government's Exhibit No. 33, I guess it is, would you describe what Thompson told you?

A Yeah.

Q And what he did on this occasion.

A Yeah.

Well, as he was drawing, which way can I stand—as he was drawing, he said that there will be three top leaders in this organizational structure. One person will be the political person of the structure on the top leadership. The other one will be the organizational person, and the third person would be the trade union mass organization person. Of the (tr. 382) three top leaders in the structure—the three top leaders will set a date, and this person, this political person will appoint three persons.

(Copies of the exhibit were handed to the jurors.)

Three persons; political persons, and only he from this three will know who these three people are. Likewise, this person, the organizational person will appoint three organizational persons on the lower level, and only he will know who those three are, and likewise, the trade union mass organization person in the top leadership will appoint his three on the lower level, and only he will know them. Out of this three at a certain date these three persons will be notified and identified to get together and get acquainted, that they are the leaders on that level. This level was the area level in New York State.

New York State was divided into three areas. The first area was New York City itself, and all the industrial sections in New York, and the Cultural Division of the Communist Party New York. The second area was Kings County, that is, Brooklyn, Queens County, that is Long Island

City, Astoria and Flushing, and Bronx County, the Bronx, and Westchester County. That was the second area, and the third area was Buffalo, Syracuse, Rochester, Schenectady and Albany and in the southern area and Johnson and (tr. 383) that part, that was the third area, so he appointed his three leaders for the three areas. He appointed his three leaders and he appointed his three leaders—the same procedure then followed on a County level and the same procedure followed then on a Region level.

Now here, because of the space, he was drawing that one region represents this whole organization. Now it comes down to Section level, Subsection level and Group level. So on the State level there were three integrated, on the Area level nine Party members, on the County level; twenty-seven, members, on the Region level eighty-one, on the Section level two hundred and forty-three, on Subsection level seven hundred twenty-nine, and on Unit level two thousand one hundred eighty-seven.

It will give a total integration of three thousand two hundred seventy-nine members in this new structure.

Now security, from the point of view of security—now let's take what happens on a County level. This person on a County level is known only to the County, to the Area Political person on top of him, and he knows the one, two, three, Political leaders that he has appointed on a lower level. This is one security measure. That one person, for instance, is only known by four other persons in the Party. No, five other persons in the Party. One, two, three, four, five, and his higher contact.

Now if a Party member is, let's say, on a County level (tr. 384) he can never get in touch with a person on the

higher level until the person on the higher level so decides to get in touch with him. He has to wait. But he can always get in touch with the three that he has appointed below. He can get in touch with them and discuss problems with them and give them instructions and whatever task or work has to be done.

So this principle of working downward gives an added protection of the higher levels in the organizational structure in the Party so that they have more security than being on the lower levels.

Now this organization was to be implemented on the higher levels and there was my task, was assigned to me. I had to line up on this level a whole chain of hiding places for party leaders. Places where persons can stay for an indefinite term of time, places where a person can stay for a specified term of time, and places where you can stay for an hour or an hour and a half to have a short meeting. I had to sort out many, many places like that, for to be available, for this leadership. Each leader on these three, on this top level, was supplied with an envelope full of apartment keys and to each key there were attached remarks, what time, and so forth, and what kind of an apartment it is.

We had to line up a whole chain of calling points, telephones, where messages can be left, if a person called a certain number, message could be left there and somebody calls (tr. 385) in and picks up that message by another telephone call to that same number. We concentrated particularly on places where there is somebody always home during the daytime, particularly young women who had children, small children. They'd have to be around the house, so that's the kind of places we were looking for, for that kind of a telephone contact.

Then we had to line up a whole chain of drop places. Well in that, we were fortunate because we had a pretty good Party organization in the New York chain drugstores and drugstores were lined up for drop places, and we exactly knew when the Party member is a druggist and in charge of the drugstore. At one time we lined up a whole, oh, about two dozen places like that for that purpose. My task was also assigned to me by Bob.

Q Who is Bob?

A Bob Thompson, to set up sensitive, short-wave radio sets. He instructed me to set up two of these sets. I did set up one in Essex, 43 Hallicrafter, Essex, 43, and that was set up in one of the person's who was on this top level, in his home out in Queens County. He also told me to—no—Bill Norman, the Executive Secretary, asked me to supply him a list of names, about twenty names, composed of reliable Party members who are, maybe not too well known for their Party membership, but in whom the Party has utmost confidence, who could be trusted anywheres from ten (tr. 386) to twenty thousand dollars per person, that the type of a person he would be, he would never change his loyalty to the Party, for let's say, for being entrusted with ten to twenty thousand dollars. He also raised the question of setting up an underground library for the Party.

Let's see. What else? These were the, yes, and also I was assigned to begin to work on talking to the legal Party leaders in the County, to begin to think in terms of setting up printing presses, and I was instructed to set up a photo, one or more photo offset equipment, printing apparatus, so that the Party has a press available when all other sources are dried up, where the Party cannot print any material any more openly.

Well, these were in the main the problems that were discussed over there and the assignments that I got at that particular meeting.

Q Mr. Lautner, what is the name you gave to this organization or system?

A The three-system, the underground system of the Party.

Q Did it also have another name that was used in the Party?

A Well, Bob mentioned at that time troika; troika is a Russian word, it means a three-system.

Q Did Thompson—

A Threesome.

(tr. 387) Q Did Thompson at this time tell you what the purpose of the underground structure was?

A Yes. Well, his phraseology was to—well, we were facing hard times at that time, to enable the Party to function under any and all conditions as an organized Party.

Q Was anything done in your pursuance of this?

A Yes.

Q Direction—what was done, just generally?

A Well, the vertical structure was beginning to be shaped. I put in on State level some of the horizontal aspects of the organization as I set up printing apparatus. I got all these places that he was asking for, and there was a check of the vertical structure at one point, somewhere around the middle of 1949, in some areas, it went down to the fifth level. In one area it was down to the sixth level and I, myself, went up to Upstate New York to check the third area, where we had certain difficulties on the vertical structure because the cities were far apart and

the integration was a problem.

Q Now, Mr. Lautner, referring to the horizontal structure, as you describe it, subsequent to the meeting with Thompson, did you meet with any other leaders of the Party with reference to the horizontal structure?

A Yes.

Q State leaders?

A Well, this initial meeting was about one week after (tr. 388) the '48 convention. From that time on up until I left the Communist Party, I had numerous meetings with Hal Simon, with Bill Norman, and then we begin to enlarge on our meetings a little bit. We involved other people, at one point; George Black Charney or Blake Charney, George Blake Charney was at one of our meetings, so was Mae Miller, or Mae Himoff, and then at one other meeting where we discussed one particular area and that was the area to Brooklyn and Queens County, I called in Isidor Bugan, B-u-g-a-n—yes B-u-g-a-n, Izzie, and Ben Davis from Brooklyn, to discuss specific problems in that area. They went too fast over there. And they got—they didn't integrate the right type of persons into their structure, so these were the meetings that I recall were held after this initial meeting.

Q Did you have any discussion with State leaders with reference in obtaining equipment?

A Yeah.

Q With whom did you have these discussions?

A Well, first of all, to obtain equipment I had to have money and I got about—I don't know—about six, seven thousand dollars from Hal Simon for buying these photo offsets equipment.

Then we start manufacturing a flat mimeograph machine which cost him thousands of dollars and we have to give advance money on that.

(tr. 389) Q Where did this mimeograph machine—do you have a model?

A Yes.

Q Where did you get it?

A I got a model from a person by the name—I knew him as Bill Stensil. Bill Stensil was a Spanish veteran, Spanish veteran, and he brought home from Spain a little flat mimeograph machine that he saw the Germans use in the International Brigade, and he gave that model to us and we made dies, got in contact with specialists in the field, made dies, and the little plant was set up to manufacture these machines out on White Plains Road in the Bronx.

Q Was this manufacturing conducted at the request of the Party?

A Yes.

Q Manufacture of these duplicating machines?

A That's right.

MR. TAYLOR: May we have the Party specified there?

MR. KEENEY: All right, What Party are you speaking of, Mr. Lautner?

THE WITNESS: The Communist Party, New York State.

MR. TAYLOR: I don't mean the Party; the person in the Party.

(tr. 390) THE WITNESS: Oh, gee. Now let me see. What's his name? I will get his name in a few minutes. I

mentioned the name in so many cases.

BY MR. KEENEY:

Q Mr. Lautner, while you're thinking of that, do you know who provided that money for this?

A The New York State Organization of the Party. It was part of our budget that was laid aside from previous years. The money came from that part of the budget that was laid aside for this purpose in previous years, and in the '49 budget we had a substantial amount designated or allocated for this purpose.

Q Do you know—

A Frank Shore. Frank Shore is the name of the person. Frank Shore. S-h-o-r-e.

Q Do you know how many, approximately, approximately how much was involved in the manufacture of these things?

A Up until the time I left the Party, I think about eight, nine thousand dollars; somewhere around that.

Q Mr. Lautner, did you discuss the subject of communications with any Party leaders?

A That is right.

Q With whom?

A In the summer of '49 with John Williamson. And also about the same time I think, about a month earlier, or so, (tr. 391) with a person by the name of Andy Remes, R-e-m-e-s.

Q What did you discuss in the field of communications?

A First, Andy Remes checked up on me, whether I had these Hallicrafters set up, and also he asked me to help him. He asked me to help him secure places for the level above

the, above our apparatus, New York State apparatus, so I was instructed by John Williamson to talk to him and then I directed him to a number of County Organizers out in Westchester, and to John Levine, and out in Nassau County, where there was a woman organizer out there.

Q What kind of communication equipment did you discuss, Mr. Lautner?

A With John Williamson, he told me to explore the possibility, to set up a short-wave sending apparatus that would be a chain all the way across the country for his main concern was to get out from New York up to approximately Albany or Schenectady, up around there, to have a safe communications system built up to that point.

And he suggested various methods, mobile, mobile setup, possibility of buying a small cruiser on the Long Island Sound somewhere that could be used for that purpose, or maybe a truck, and that was the problem he was confronted with, that we should be in a position to break out of New York with a safe communication up to approximately Albany.

Q Did you discuss the problem of individuals to handle (tr. 392) this equipment?

A No, he suggested it, that I should get in touch with some of the people in the unions who handle this type of activity in the communications union, or in, there are a lot of instructors in the Party who are teaching specially at that time television and radio in schools, to get in touch with these people, that they will help me along that line.

Q Mr. Lautner, you discuss in these discussions you mentioned discussions with Andy Remes.

A Yes.

Q What was Andy Remes at that time?

A At that time he was on leave of absence from the Wisconsin Organization where he was a District Organizer of the Party. He was called in by the National leadership.

Q How do you know that?

A He told me why we were—

Q Did anybody else tell you?

A John Williamson said that.

Q Who was John Williamson at that time?

A Huh?

Q Who was John Williamson at that time?

A He was Labor Secretary of the Party and a member of the National Committee.

Q Mr. Lautner, you mentioned before this mimeograph machine that was manufactured by the Party or at the (tr. 393) Party's request. Would you describe that mimeograph machine or duplicating machine?

A Yes. Yes. It is a flat board with a metal plate on top of it. When you turn that flat board over, it looks like a picture frame, and there are two guides attached to the metal plates. On one side, and on this side, for where you could push the paper in, the sheets in, and now that is the bottom part of the machine. The upper part is two rods, two metal rods with a couple of crossbars and springs, four springs, to which crossbars one can attach a cloth like a tablecloth which is smooth and varnished or some kind of a chemical on one side, and rough on the other side, so you can paint one side of it and the paint won't get through to the other side because you have that hard surface, that lacquered surface.

Now against that, that painting then you can put a stencil which was already processed, which has a text, and then

there is a clip, a metal clip with which you can fasten the stencil tight on the bottom part of that upper structure, and then you just lift it over on the paper where the sheets are, and with a roller you just roll over once and you have a perfect copy, a reproduction of the stencil, and it does a very neat, clean job.

Q Mr. Lautner, on the subject of radio communication, did you at any time report on that subject to the higher (tr. 394) echelon in the Communist Party?

A I had a number of conversations with Bill Norman about it.

Q Did you ever have a conversation with John Williamson with respect to—

A After that I never had a conversation with John Williamson.

Q Now, you mentioned finances previously, Mr. Lautner. What did you do with respect to finances and the program as projected by Thompson?

A Now that was Bill Norman and he told me to get a list of about twenty Party members. And he described what kind of a Party member. And I prepared such a list for him and I gave that list to him and he told me to get the list from Mae Miller or Mae Himoff and also for Bernie Chester. I didn't know that he instructed others to get lists, too, so there were three of us, with sixty names, some for the same purpose, so we decided that we will give all the sixty names to Bill Norman and let him select out of that sixty whatever name he wanted to for himself.

Also I want to state that neither Mae nor Bernie Chester knew exactly why Bill Norman asked them for a list of names.

Q Do you know why he asked you for a list?

A Yes, because I was on the initial meeting and I don't (tr. 395) know what conversations he had with them, and I didn't probe, what their list was about—but we decided to give him all the sixty names.

Q You previously described the purpose?

A Yes.

Q That came out of that meeting?

A Yes.

Q Mr. Lautner, with respect, you mentioned a test of the system. When was this conducted?

A This was conducted around May, 1949, or April, or May, 1949.

Q How was it carried out?

A It was carried out by a person that I had released from the Kings County Organization by the name of David Lead, or David Ameriglio, A-m-e-r-i-g-l-i-o. He prepared three sets of envelopes and we were letting the envelopes with the envelopes were given—I gave it to the Labor Secretary, Hal Simon, up here, and he was to let these envelopes come down, (pointed to chart), on first, in one area, and then the envelopes would be picked up again about a week later and see if there's any break somewhere along the line in the structure.

In the envelopes there was a sheet of paper, in each envelope there were—I don't know—twenty-seven envelopes prepared for each area, a sheet was in each envelope for each person who received the envelope, which was his, (tr. 396) comments like, Is he satisfied with the other two persons whom he or she may be integrated within that three? Well, that test, and there are, three different colors were

used, so that they would know one color down in this way; other color would go this way, and third, we would exactly know in that three that remark and by whom that remark was made.

Q Do you know what the results of the test was?

A I don't know. I don't know. I know the result of, in the Kings County, the judgment was after we had that check-up, that we—I am going to use Bill Norman's words, that we hit the bottom of the barrel too fast. We didn't integrate the right persons in some of the systems in that area and that certain steps had to be taken and this was as late as, already October, 1949.

Q Did Norman indicate that steps would be taken?

A Yes.

Q Do you know whether or not they were taken?

A I assumed they were, because by a month and a half or so later I was out of the Party.

MR. TAYLOR: I will move to strike that assumption; it is not evidence and not testimony.

MR. KEENEY: We will agree to strike that.

BY MR. KEENEY:

Q Mr. Lautner, in connection with the structure you have described, was anything done with respect to Com-
(tr. 397) munist Party literature?

MR. TAYLOR: What?

MR. KEENEY: Literature.

THE WITNESS: The only thing that I know of for

my own personal knowledge that the New York State Organization through Crosby at that time was making negotiations to buy a building on 17th or 18th Street, between 7th Avenue and 8th Avenue in New York, to use it as an underground place for stocking up literature, classic Marxist, classic literature.

BY MR. KEENEY:

Q By Marxist classics, literature, did you understand that he was referring to literature such as that we have?

A Yes, fundamental literature, that we shouldn't run out of it, or should be available.

Q Now, Mr. Lautner, getting back again to the, to this mimeograph or duplicating machine, did you have any further contact with that?

A With the duplicating machine?

Q Yes.

A Well, we manufactured them and we sold them to the areas.

Q All right. Directing your attention to 1949, did you have any contact with it?

(tr. 398) A Oh, well, I always had contact with the duplicating machine. It was always nearby, somewhere.

Q Well, did you have any particular contact with it?

A Well—

Q 1949?

A In relation to certain people; yes.

Q What was the nature of that?

A There was a plenum.

Q What is a plenum?

A The plenary session of the National Committee.

Q That was held?

A 1949. That was held in two floors below me in the Party Building, in the Hank Ford Auditorium in 35 East 12th Street, and District Organizers and State leaders were sent in to me. Some of them, one by one, that I should give them a demonstration of this little gadget, how practical it was.

Q Who told you you should give a demonstration?

A Jack Kling.

Q Who is Jack Kling?

A Treasurer of the Communist Party.

Q Who were some—

A And—

Q Who were some of the people that came in for demonstrations?

A As I recall one was Dorothy Healy, from California. (tr. 399) She's head of the Los Angeles District. Bernie Friedlander was one of them.

Q Where was Bernie Friedlander from if you know?

A He was the D.O. down here at that time, of the Carolinas, District Organizer. Eddie Stark came in from Chicago, the District Organizer. I don't know who—the name now—from Texas came in, and he asked me if he could get six machines like that. I say, "Sure, if you have the money." And Brooklyn paid for six machines, so I gave him six machines.

Q Brooklyn paid for six machines for Texas?

A For Texas; that's right, and other District Organizers came in during, in the course of the day, and I demonstrated the machine to them.

Q Mr. Lautner, do you know whether or not these in-

dividuals were sent in to you by someone?

A Jack Kling told me that he will send them in to me and I should sit down and discuss the thing with them. Otherwise I wouldn't.

Q Excuse me. When these people came in to your office, what, if anything, did you do?

A I just described that I demonstrated the machine to them. I showed the practicality of that little gadget, that you can take it apart, you can use it both, the bottom as a picture frame or a tray for a water pitcher, and you can take the other part apart or use it as a crocheting square, so (tr. 400) that you can disperse that little thing in an apartment and nobody would know that you have a mimeograph machine in the house.

Furthermore, it's a handy little gadget that is not bulky. There is no drum to it, and you don't have to keep it in the clothes closet and that it was a practical machine that will be used for the underground in the coming period for Party leaflet work, in the group systems.

* * *

(tr. 401) * * *

Q Mr. Lautner, the underground structure as you described it in the State of New York, do you know whether or not any part of that was put into operation on the National level while you were a member of the Party?

(tr. 401-A) A Yes, I do know.

Q How do you know?

A Well, the most vivid thing that stands out in my mind that I at one point in, on the 14th of January, I was extensively interrogated on the underground by persons who were not from New York. One was from Detroit. The other one was from Cleveland, and they had just as much knowledge about the underground as I had.

Q Were you—

MR. TAYLOR: Excuse me. Was that January 14, 19—

MR. KEENEY: '50.

THE WITNESS: June 14, on a Saturday evening, '50.

BY MR. KEENEY:

Q. Were any of these individuals in the National leadership of the Party?

A Yes.

Q What position, if you know, did Andrew Remes have in this structure?

A At the time I was in contact with him in 1949 in New York, I was doing work similar to the type of problems that I had, some of the problems that I had in New York City in 1944.

Q How do you know that?

(tr. 402) A John Williamson sent him to me and asked me to cooperate with him and get him in touch with certain people to solve certain problems. That was his assignment.

Q Now, Mr. Lautner, you mentioned a test of the structure on the one point. Was there prior to the time you left the Party, prior to the time you left the Party was there anything else in the way of a security test conducted?

A Well, yes. There was a test.

Q What was the nature of the test?

A The nature of the test was that—

Q First of all, did you participate in it?

A Yes.

Q What was the nature of it?

A In our setup on the State level the test was that one-third of the Party leadership was always out, out of office and out of contact with anybody in the Party, by instructions, for periods of one week and two weeks.

Q Was any reason given for this test?

A Yes.

Q By whom?

A Well, the person who was in charge of this phase of testing was Hal Simon, and the reason given was that the whole leadership, State leadership, shouldn't be in the office at all times. I mean, shouldn't be in the office together at any time.

* * *

(tr. 424) * * *

Q Mr. Lautner, during the time that you were a member of the Communist Party, were you taught concerning the ultimate goal of the Communist Party of the United States? Yes or no, please.

(tr. 425) A Yes.

Q When were you so taught?

A I was so taught in, specifically, in the 1930 National Training School and also in the 1941 National Training Schools.

Q By whom, sir?

A By a number of instructors, amongst others, Lustig, Szanto, Siskind, Carr, Sam Carr, as I recollect.

Q Now, Mr. Lautner, again I will ask you for a yes or no answer; while you were a member of the Communist

Party did you teach concerning the ultimate goal of the Communist Party of the United States?

A Yes, I did.

Q Where?

A Well, as late as in the 1947 and 1948 period in the classes where I taught.

Q. When you taught did you teach substantially the same on this subject as you were taught?

A Yes.

Q Now, will you tell us, what were you taught and what did you teach concerning the ultimate goal of the Communi. Party of the United States?

* * *

(tr. 426) * * *

THE WITNESS: That the ultimate goal, the ultimate aim of the Communist Party was to bring about a fundamental change in the economic, social and political structure of capitalism in the States.

BY MR. KEENEY:

Q As applied to the United States?

A As applied to the United States.

Q Mr. Lautner, were you taught as to how this fundamental change would be achieved? Yes or no?

A Yes.

Q When were you taught?

A In the 1930 and 1941 National Training Schools.

Q By whom?

A By the same persons that I named before.

(tr. 427) Q Did you yourself teach in the Communist Party as to how this fundamental change would be achieved?

A Yes.

Q When?

A In the, as late as in the 1947-48 period in the schools where I taught Marxism-Leninism.

Q What you did teach, was it substantially the same as had been taught to you?

A That's correct.

Q What were you taught and what did you teach as to how this fundamental change in the United States would be achieved?

* * *

THE WITNESS: That this fundamental change cannot be achieved peacefully. The United States is being the most powerful imperialist country, being the leader of the countries in the so-called imperialist camp, that this change will come and it can come as a result of force and violence on the part of wresting power from the capitalist class in this country.

BY MR. KEENEY:

(tr. 428) Q Mr. Lautner, again I ask you for a yes or no answer. Were you taught as to when the Party might achieve this goal in the United States?

A Yes.

Q Where were you so taught?

A In the 1930 and in the 1941 National Training Schools.

Q By whom?

A By the same persons that I mentioned before, and I

taught the same thing in the 1947-48 period in the classes where I was teaching Marxism-Leninism.

Q All right. Now, Mr. Lautner, what were you taught and what did you teach concerning when the Party would attain its goal here in the United States?

* * *

THE WITNESS: Yes, that there are certain prerequisite, preconditions objective and subjective, preconditions for a ripening revolutionary situation; the objective set of conditions, I described them, I think, yesterday, but I will go again—the crisis, a war situation, when the ruling class is unable to maintain itself through the state apparatus by ordinary means, by normal means, it has to resort to extra measures—when these sets of conditions exist parallel (tr. 429) with the subjective conditions, when the Communist Party is enjoying the confidence of the decisive sections of the working class and other strata of the working class of the—when the Communist Party enjoys the confidence of the allies of the working class, the poor farmers and national minorities; when the Communist Party is in a position to neutralize large sections of the Petty Bourgeoisie and the Bourgeoisie, when these two conditions exist, these two separate conditions, as the Party carrying out its vanguard rule is ready to lead the working class to wrest power from capitalism, and bring about that fundamental change in the social, political and economic structure of our society here.

BY MR. KEENEY:

Q Mr. Lautner, again I ask you for a yes or no answer. During the time you were a member of the Communist Party were you taught what party members should do in order

to achieve this goal of the Party, this ultimate goal of the Party?

A In, during my membership in the Communist Party, on all levels, the Party's membership were always urged to carry out their obligations, their day-to-day activities, their assignments in the day-to-day work of the Party in order to bring closer to realization of the final aims of the Party.

(tr. 430)

Q Did you teach that?

A That is correct. Not only teach that; I said it a millions of times.

Q When?

A In the course of twenty years on all levels where I gave leadership to the party membership.

* * *

BARBARA HARTLE TESTIMONY

DIRECT EXAMINATION

(tr. 480) * * *

Q Mrs. Hartle, was there a time when you became a member of the Communist Party?

A Yes.

Q When was that?

A It was in late 1933, or early 1934.

(tr. 484) * * *

Q Now did there come a time, Mrs. Hartle, when you received another assignment in the Communist Party?

A Yes.

(tr. 485) Q When was that?

A In 1935 I received the assignment to build a Railroad Branch of the Communist Party.

Q Who gave you this assignment?
A The section officials.

Q Will you explain what this assignment was to the jury, please.

A Building a Railroad Branch meant to have several Communist Party members be taken out of other branches and out of other work and assigned to be a branch among themselves for the purpose of concentrating on contacting and influencing and recruiting railroad workers into the Communist Party.

Q How long did you continue in this activity?
A About a year.

Q During this time did your education in Marxism-Leninism continue?
A Yes.

Q What was the next assignment which you had in the Communist Party?

A The next assignment was that to be the Agitation Propaganda Director of the Spokane Section.

Q How did you receive this assignment?
A I received that assignment from the section officials.

(tr. 486) Q Will you explain to the jury what an Agitation Propaganda Director was and what an Agitation Propaganda Director did.

A An Agitation Propaganda Director was usually called "Agit Prop" Director, is a title that was later known in the Communist Party as Educational Director. At a time when the Americanization of the terms took place in the Party. The work that was entailed by being an Agit Prop Director was to organize classes in schools, to see that Branch Educationals were held, and to supervise them, guarantee that the right kind of study was being taken up in the branches, to supervise the literature, distribution work

of the Party, to see that the necessary quotas of Party literature were distributed in the branches and on out to other persons in the industries, to supervise the issuing of leaflets by the Communist Party on important questions of the day; questions that they consider important.

Those were some of the duties.

Q Did you have any responsibility with regard to educational meetings in the various branches at that time?

A Yes. The Educational Director was responsible to see that the branches had proper Educationals, used the proper literature, and above all to make sure that they had them, make certain that they had Educationals at all times.

Q What were your responsibilities with respect to the (tr. 487) preparation of the leaflets?

A The responsibilities of the, as Agit Prop Director was at that time in the main to see, write them, to see that they were written, and that someone mimeographed them and that they were distributed.

Q What materials did you use in getting up these leaflets?

A The leaflets were based on the basic tenets or principles of Marxism-Leninism, depending on what situation you were bringing about, if you were bringing about a leaflet on peace, or an antiwar leaflet, you would use some material like War and the Second International, by Lenin, use a few quotes to show that what the real Marxist-Leninist meaning of this antiwar leaflet was, and their position was, and the same way on other subjects.

If you were writing on a strike struggle, or some other issue, you would find, base yourself on and find material in some of the Marxist-Leninist works to use in the leaflet.

Q By the way, how often would you get out the leaflets about this time?

A Quite frequently at that time. That was one of the major activities of the Communist Party in Spokane at that time, and a leaflet, were gotten out quite frequently, about once a week, an issue would go out, and then if a strike or (tr. 488) some other action took place that the Communist Party was interested in, they might go out every day or for a period of time.

Q Do you remember any particular actions in which the Communist Party was participating at that time?

A One of the actions that I can recall is a lumber strike that the Communist Party interested in itself at that time, and issued leaflets about.

Q I see.

Now did there come a time, Mrs. Hartle, when you went to a school in Seattle?

A Yes.

Q What was the approximate date of that assignment?

A 1937.

Q What was your position in the Party at that time?

A At that time I was either about to become or had recently become the manager of the Workers Book Store in Spokane.

Q Will you first tell the jury what the Workers Book Store in Spokane was?

A The Workers Book Store was the Communist-operated book store, had the title "Workers Book Store." It circulated Marxist-Leninist literature, the current pamphlets of the Communist Party and the papers of the Communist

Party, like the Daily Worker, New Masses, and things of that nature.

* * *

(tr. 489) * * *

Q What was the name of the school you attended in Seattle?

A It was called the Stalin School.

Q Will you tell the jury, please, how you happened to go to this school?

A When the Northwest District Communist Party Office let the Spokane Section know that they were organizing a full-time training school, the Communist Party Section Committee in consultation with the District Office selected me to attend that school.

Q Who paid your expenses to the school?

A The Communist Party.

Q Do you recall the approximate dates in the year 1937 when this school was held?

A No, I don't remember the months.

Q Do you recall who was in charge of this school?

A Yes. It was Morris Raport, R-a-p-o-r-t, who was the (tr. 490) District Organizer of the Northwest District of the Communist Party.

Q Who else was on the staff of the school, Mrs. Hartle?

A Harry Jackson, the Trade Union Director of the Northwest District of the Communist Party, also taught at the school. Another person who taught at the school was Roy Hudson, who was the National Trade Union Director of the Communist Party.

Q For how long did this school last, Mrs. Hartle?

A It lasted for six weeks.

Q And how many days a week?
A Six days a week.

* * *

Q Mrs. Hartle, will you, please, tell the jurors the sub-
(tr. 491) jects that were taught at the school, Stalin School of the Communist Party which was held in Seattle in the year 1937?

A The subjects taught there were Political Economy, the National and Negro Question, and Marxism-Leninism.

Q Do you recall whether there was a course on the trade union question?

A Yes, there was a course on the trade union question.

Q Do you recall some of the texts that were used at that school?

A Yes. Some of the texts used were The Communist Manifesto; Wage Labor and Capital by Karl Marx; Value, Price and Profit by Karl Marx; Imperialism by Lenin; Foundations of Leninism by Stalin; The Negro Question by James S. Allen, and those are some that I can recall at this moment.

* * *

(tr. 493) * * *

Q Now about the year 1937 were you, did you join any organizations on the instructions of your superiors in the Communist Party?

A Yes.

Q What instructions did you receive?

A The instructions that I received were that the Communist Party was interested in gaining influence in the Washington Commonwealth Federation, a left-wing Fed-

eration of Labor, political and other organizations, and that in order to gain this influence I, among others, should join and work in that organization.

The instructions were that we should devote a great deal of time to it because it was a very top priority project with the Communist Party and that it wished to direct and guide the work of this organization.

The other instructions I received were that the Communist Party had to strike deep roots in the labor movement, among the working classes, and I was told that inasmuch as my husband was a railroad worker, I was eligible to belong to the Women's Auxiliary of the Railway Workers Union and should join it, and that I should work from there to become a fraternal delegate to the Central Labor Council, which I did.

Q Mrs. Hartle, who gave you these instructions?

A The Communist Party officials in Spokane, Washington.

Q Specifically who?

(tr. 494) A J. H. Van Orman.

Q What was his position at the time?

A He was the Section Organizer of the Party at that time.

Q Did you join the Washington Commonwealth Federation?

A Yes, I did.

Q Did you come to hold office in that organization?

A Some offices I held of a neighborhood group of the Washington Commonwealth Federation.

* * *

Q Tell us what occurred within the organization as regards Communist penetration, Mrs. Hartle.

A What occurred in, putting it briefly is that from the (tr. 495) years 1937 on through to 1939 the Communist Party did a great deal of work in the Washington Commonwealth Federation, had almost all of its members belonging to it as a mass assignment.

In 1939 almost every officer of the at that time organization of the Washington Commonwealth Federation was a Communist.

Q Mrs. Hartle, did you, pursuant to your instructions, join the Women's Auxiliary of the Railway Carmen's Union?

A Yes, I did.

Q Did you, pursuant to your instructions by the Communist Party, get yourself elected a delegate from that union to the Central Labor Council in Spokane?

A Yes, I did succeed in becoming a delegate to the Central Labor Council.

Q Mrs. Hartle, what was your position in the year 1938 within the Communist Party?

A In 1938 I received the assignment and accepted it of being the Organizational Secretary of the Communist Party in Spokane.

Q As Organization Secretary what were your responsibilities?

A My responsibilities were to oversee the collection of dues from Communist Party members, to keep an accurate record of the membership of the Communist Party, to keep (tr. 496) a record of the new recruits as they were brought into the Communist Party, to lead the campaigns for rais-

ing funds for the Communist Party, such as, funds to raise money for the Daily Worker, or for the needs of the Spokane Section of the Communist Party, or for the fund drives of the Northwest District of the Communist Party.

Q Did you have any responsibility as regards assigning members to specific activities within the Party?

A Yes, the Organizational Secretary's duty was to check constantly to see that every member of the Communist Party was involved in at least one field of mass work, either trade union or the unemployed field, or some assignment where they'd be working with somebody besides among themselves, with non-Communists.

Q Do you recall whether there was a National Convention of the Communist Party in the year 1938?

A Yes, there was.

Q Were you a delegate to that convention?

A I was not a regularly elected delegate. I was an accredited visitor at the convention.

Q I take it that you attended the convention?

A Yes, I did.

* * *

(tr. 497) * * *

Q Now, Mrs. Hartle, at this time, in 1938, what was your relative position in this Spokane Section of the Communist Party in the State of Washington?

A In the State, in the Spokane Communist Party, the position of Organizational Secretary was that of the second in command or the second topmost position.

Q And over what geographic area did your authority extend?

A Over the area of Spokane, and its environs, which included some smaller towns within a radius of a hundred or a hundred and fifty miles.

Q Did there come a time, Mrs. Hartle, when you took a leave of absence from the Party?
(tr. 498) A Yes.

Q When was that?
A In 1939. As I recall it was in the spring or early summer of 1939.

Q When did this leave of absence terminate?
A In 1940.

Q What happened at that time?
A At that time I became the Organizer of the Spokane Section of the Communist Party.

Q Was that the top position in the Spokane Section of the Party?
A Yes.

Q What was the territorial jurisdiction of the Section while you were Organizer; that is, while you were Chairman?

A While I was Chairman of the Spokane Section at that time, the jurisdiction was Eastern Washington. After a few months of being Chairman of the Spokane Section a change was made. Idaho was added to that Section. The name of the position changed to that of Inland Empire Council Chairman of the Communist Party.

Q Mrs. Hartle, how long did you continue as Chairman of the Inland Empire Council of the Communist Party?
A Until June of 1942.

Q Now, Mrs. Hartle, directing your attention to the

classes which you attended at the Stalin School in Seattle (tr. 499) in 1937, will you answer the following questions yes or no?

Were you taught there the ideology and the principles of Marxism-Leninism?

A Yes.

MR. TAYLOR: Mr. Woerheide, I ask that, as regards these questions, we have specification in the question to who taught.

BY MR. WOERHEIDE:

Q Mrs. Hartle, who taught the principles of Marxism-Leninism to you?

A All of the instructors taught some of them.

Q Were you taught regarding the application of these principles of Marxism-Leninism to the United States?

A Yes.

Q Were you taught that such a principle did apply to the United States?

A Yes.

Q Were you taught regarding action which should be taken by members of the Communist Party to put these principles into effect?

A Yes.

Q Now, Mrs. Hartle, thereafter in your, in performing your duties as a functionary of the Party, did you by action put into effect the principles of Marxism-Leninism?

A Yes.

(tr. 500) Q Did there come a time, Mrs. Hartle, when you ceased to be Chairman of the Inland Empire Council of the Communist Party in Spokane?

A Yes.

Q And went on to another assignment?

A Yes.

Q When was that?

A That was in June of 1942.

Q What was your next assignment?

A My next assignment was that of being the Administrative Secretary of the King County Communist Party.

Q Where were the headquarters of the King County Communist Party?

A In Seattle, Washington.

Q How did you receive this assignment?

A I received that assignment through a visit of Andrew Remes, and Phil Frankfeld, who came to Spokane to a conference that the Inland Empire Council was having. Upon hearing my report to the conference Phil Frankfeld said that he was very much impressed with the report and he wished to propose that I should come to Seattle and work in the District Office of the Northwest District Office of the Party.

Q Did you do so?

A Yes.

Q What was your assignment in the Northwest District (tr. 501) Office?

A My first assignment there was to become acquainted with the whole operation and organization and personnel of the Party and therefore I went to very many meetings of

many committees and commissions and Party Organizations, in order to become acquainted.

My first assignment, specific assignment, was that of Secretary of the King County Communist Party.

Q I take it the King County Communist Party is a subsidiary organization of the Northwest District of the Communist Party?

A Yes, it was subsidiary organization.

Q Was there a District Board in the Northwest District?

A Yes.

Q Was there also a District Committee in the Northwest District?

A Yes.

Q Did there come a time when you were appointed to positions on the District Board in the District Committee?

A Yes, in 1942, after I was transferred to Seattle, I became a member of both of those bodies.

Q Will you explain to the jury, please, what area was under the jurisdiction of the Northwest District Board and the Northwest District Committee.

(tr. 502) A At that time the Northwest District of the Communist Party had as its territory the State of Washington, Oregon, Idaho. That is it.

Q Mrs. Hartle, how long did you continue to hold the positions of member of the Northwest District Board and member of the Northwest District Committee?

A From 1942, at which time I came to Seattle, until 1950, at which time I left Seattle.

Q Mrs. Hartle, was there a so-called Northwest Negro Commission, which was a part of the Party Organization

in the Northwest District?

A Yes.

Q Did you have any connection with that commission?

A Yes. In 1942 I was appointed to that commission by Phil Frankfeld. I remained on that commission until 1950. During several of the early years, of my membership on that commission, I was its Secretary, and during 1947 to 1950 I was the Chairman of the Commission.

Q Mrs. Hartle, as a—was there a school maintained by the Communist Party in Seattle?

A Yes.

Q What was the name of this school?

A It was the Workers School.

Q Did you have any connection with the Workers School?

A Yes, I was a teacher in the Workers School.

(tr. 503) Q When did you start teaching there?

A I taught in a session of the Workers School in 1942, the first time.

Q Thereafter, in what years did you teach?

A I taught in the years 1943 and 1944.

Q Do you recall who was in charge of that school?

A For most of the time, if not at the very beginning, a man by the name of John Dachbach was in charge of the school. D-a-c-h-b-a-c-h.

Q Did you know John Dachbach as a functionary of the Communist Party?

A Yes, I knew him as a member of the District Committee of the Communist Party for a number of years between 1942 and 1950.

Q Was there also a man named Phil Frankfeld connected with the school?

A Yes, he was a teacher in the school. He taught the leading class in the school for Communist Party Functionaries.

Q What was his connection with the Communist Party, if you know?

A He was the District Organizer of the Northwest District of the Communist Party in the 1942-43 period.

Q Do you know what his later assignments in the Communist Party were?

A It was reported in the Communist Party that later he (tr. 504) became the Chairman of the Communist Party of Maryland.

Q Mrs. Hartle, what course or courses did you teach in the Seattle Workers School?

A I taught several courses on Political Economy. I taught several courses on Leadership Training for Communist Party Functionaries.

Q Did you also attend courses in the school?

A Yes. I attended the course of Phil Frankfeld for Communist Party Functionaries.

Q What was the name of the course which he taught?

A It was Marxism-Leninism.

Q Now, Mrs. Hartle, the subject that you taught, Political Economy, was that subject a part of the Marxist-Leninist theory?

A Yes.

Q Mrs. Hartle, in the course that Phil Frankfeld taught, did he teach you regarding the application of the principles of Marxism-Leninism to conditions inside the United

States? Will you answer that question yes or no?

A Yes, he did.

Q Did he teach you that the principles of Marxism-Leninism did apply in the United States?

A Yes, he certainly did. * * *

(tr. 554) * * *

Q Will you tell us what happened when you and the other students arrived at this school.

A Yes, when we arrived at the school Jacob Mindel made an introductory statement to the school, that it had a two-fold purpose. One of the purposes was to train theoreticians and propagandists for the Communist Party. The other purpose was that in the study of Marxism-Leninism we would search out and expose the remnant of revisionism, and how the revisionism had crept into the Communist Party during the Browder era.

Q In this talk did he make any reference to the terms theory and practice?

A Yes.

Q What did he say?

A He made the opening statement that Marxism-Leninism is a science, that it is not a general science, but the partisan science, the science of the working class, the science of a particular class. He said that it is a partisan theory. He said that the theory of Marxism-Leninism was founded by Marx, Engels, Lenin and Stalin, that these were the great theoreticians of the movement and that the persons were important as well as the theory, that we should popularize and explain the people and their struggles in the revolutionary movement as well as their theories, when we were talking about Marxist-Leninist theory, and he said that (tr. 555) Marxist-Leninist theory is a combination of

theory and practice, that, in the first place, Marxist-Leninist theory doesn't start from theory or from an idea, but it starts from facts, it starts from an analyses of the struggle. It draws general conclusions from the struggle and gives direction for the further conduct of the struggle and in the further conduct of the struggle new theory is again involved.

Q Mrs. Hartle, did you take a course called dialectical and historical materialism?

A Yes, I did.

Q Who taught that course?

A Jacob Mindel.

Q In substance what did he teach you during this course?

A In substance in that course we were taught first of all what the word dialectical means. We were taught that the word dialectical means the method of understanding or comprehending nature, the dialectic is the method of this philosophy, and one of the things that we were taught is that the brain is the organ of thought.

We were taught that the word historical, when you use the term historical materialism, that you're applying dialectical materialism to the life of society. You're using this dialectical materialist philosophy, a general philosophy, but you are applying it to the study of society and not nature. (tr. 556) as you might otherwise.

We were taught further in that class that inasmuch as everything according to this theory is in constant conflict, that there is a theory of opposites in society as well as in nature, a positive and negative, a struggle between two things; that in nature this struggle takes place, in society this struggle takes place between classes, the capitalist class

and working class in the stage of capitalism, and we were taught in this course and reference was made to a quotation in Chapter 4 of the History of the Comm nist Party of the Soviet Union that it is the duty of a revolutionary not to try to gloss over this class struggle or try to compromise it, but to unravel it, to allow this class struggle and help this class struggle to unfold, the clash to proceed.

Q In this connection was anything said with respect to revolution and reform?

A Yes. It was further said in this connection that it is the duty of a Marxist-Leninist to be a revolutionary and not a reformist.

* * *

(tr. 557) * * *

Q Was anything said about the uses of ideology?

A Yes, it was said that ideology is an important factor and that by it, to the revolutionary movement, it is a weapon; theory is a weapon.

Q A weapon for what purpose, Mrs. Hartle?

A For the pursuit of the aims of the Communist movement. The general aim of socialism and the particular aim of the dictatorship of the Proletariat, the Proletarian revolution.

Q Was anything said in this course about fronts and in the class struggle, Mrs. Hartle?

A Yes, it was said in this course that the theoretical front, the front of ideas and theory is also a front of struggle that the class struggle takes place in the sphere of theory (tr. 558) as well as in the sphere of economics and politics between the classes.

It was said that there are only two theories in a capitalist country, two bodies of theory, the working class theory and the capitalist class theory, and there is no in-between theory or ideology. There is no middle-of-the-road theory, that all middle-of-the-road theories are capitalist theories with variations.

Q How was the term struggle used in this course, Mrs. Hartle?

A The term struggle in the theory course was used as explaining the conflicts or disagreement that takes place in the field of theory.

Q Was anything said about a struggle against revisionism?

A We were taught in the school that the struggle against revisionism is a struggle in the field of theory.

Q Was anything said about the spontaneous, about spontaneous struggle?

A Yes, it was said that the spontaneous struggle of the working class will never lead to socialism or never prepare for the necessary steps to get to socialism, such as, the seizure of power and the retaining of power through the dictatorship of the Proletariat, that the spontaneous day-to-day struggles of the working class in the trade unions, their economic struggles, their activity on labor (tr. 559) legislation and all of these things would never lead any place. They are just a struggle within the confines of capitalism and capitalism will last forever and that class struggle can go on forever if there isn't a leadership and a theory in the working class to find a way out of that kind of a situation.

Q Was any theory pointed out as the theory that would lead out of this type of situation?

A Yes, the theory of Marxism-Leninism. It was also known as the theory of the Proletarian revolution.

Q Was anything said about the Communist Party as a collective entity, a collective individual?

A Yes, it was said that the Communist Party is a collective individual, that the Communist Party is monolithic, meaning by that that it's not made up of a loose federation of organization or loosely organized individual, but that the Communist Party is a collective individual.

Q Was anything said about what the Communist Party relies on in its work?

A Well, it was said that the Communist Party relies on the theory of Marxism-Leninism to guide its work.

Q Mrs. Hartle, did you have a course at this school called Political Economy?

A Yes.

Q Who taught that course?

(tr 560) A Jacob Mindel.

Q Will you tell the jury, please, the substance of what you were taught in that particular course?

A We were taught that Political Economy was a science. We were taught that in capitalism, under capitalism society is divided into two main classes.

Q What are these two main classes?

A The Bourgeoisie, or capitalist class. The other being the Proletariat working class; that there are two main classes in capitalist society, that the other classes, and there are middle classes that exist, are not of a determining nature in history, that they vacillate between the capitalist class and the working class. Sometimes there is one side sometimes with the other; that they waver back and forth

and will never play a role in history in determining anything new or determining the destiny of the country, or the world, for that part.

These two main contending classes, and they are contending, that is another thing that we were taught, are in constant struggle. The class struggle exists, whether Marxist-Leninists are here or not. That is what the Commun— that is what the school taught, that these two main classes are here and these two main classes are in struggle, and it was taught us that the class struggle was recognized by all forms of Socialists and by many liberal Bourgeois persons.

That was what they taught us, that the class struggle, as such, is recognized as existing by all forms of Socialist theory and by many Bourgeois liberal theoreticians.

* * *

(tr. 566) * * *

Q Were you told in this course at what stage of development the United States was at that time?

(tr. 567) A Yes, I was taught that the United States was an imperialist country and was in fact the foremost imperialist country in the world today.

Q In this course was reference made to the contradictions of capitalism?

A Yes. The three basic contradictions were taught us in this course as well. The main contradiction is between capitalists and working class, between the capitalists, the imperialist powers and the colonial nations, and among the imperialist powers themselves.

I was taught in this course that these contradictions

make imperialism the eve of the Proletarian revolution, the era of Proletarian revolutions, and that was the definition of imperialism, the era of Proletarian revolutions.

Q Was anything said, Mrs. Hartle, about the readiness of the United States for revolution and for socialism?

A Yes. It was said that inasmuch as imperialism is the era of Proletarian revolutions and inasmuch as this period began with the turn of the century, that the United States objectively along with all the rest of capitalism in the world was objectively at the stage for Proletarian revolution, that it also was a part of this general situation.

Q This phrase "objectively ready," will you explain that, please, to the jury?

A In the Marxist-Leninist theory those terms "subjec-
(tr. 568) tive" and "objective" are used to describe two sets of conditions.

The objective conditions are the conditions that the Communist Party does not control. It means the historical situation. It is whether you are in the stage of imperialism or feudalism or what the international situation is, or situation in the country. The things that happen in history that are not controlled or influenced by the Communist Party.

The subjective conditions are the Communist Party and what it can influence and its influence like the state of mind of the working class is a subjective factor, if that factor arises from the Communist Party.

So that the objective conditions are the situation that obtain. The subjective conditions is the state of the Communist Party.

Q Were you taught anything with respect to wars and

economic depressions as—

A Yes.

Q —part of the objective conditions?

A Well, I was taught that there are objective and subjective conditions in a revolutionary situation as well. There are general objective and subjective conditions. The general objective condition I mentioned here was the era of imperialism. The subjective condition, of course, is the Communist Party and the class conscious, the working (tr. 569) classes, but in a revolutionary situation there are also objective and subjective conditions of a revolutionary situation, and I was taught that a revolutionary situation is a deep crisis, economic and political. It is a situation in which the old ruling class has plenty of economic and political difficulties and such a situation could be a very bad time in a war, a partial defeat, or defeat in a war, that can be a revolutionary situation.

It can be a very deep economic crisis in which there is a great deal of discontent in the country, and that can be a revolutionary situation, and 1933 in our country it was described in this course as being such a revolutionary situation in the United States.

Q Objectively speaking?

A Yes, objectively speaking, that had objective and subjective conditions. The objective conditions of the revolutionary situation in 1933 was that the country was in a bad economic state. The crisis was very deep, and the people were in motion, discontented or alarmed, not knowing just what to do or which way to turn, or so on, at least in a state of doubt.

The subjective condition was the Communist Party, and

it was pointed out that in 1933 the Communist Party in this country was not subjectively ready to give the necessary leadership to lead to the seizure of power and the dic-
(tr. 570) tatorship of the Proletariat, wasn't large enough, didn't have enough influence in the working classes.

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(tr. 571) * * *

Q Mrs. Hartle, was any reference made to the preaching of socialism and concrete struggle?

A Yes, we taught in the class that when the struggle is led by a revolutionary party, the Communist Party, every struggle is a struggle for socialism, that the struggle for immediate demand is the struggle for socialism, that we were asked the question, What then becomes of the struggle for socialism, and Jacob Mindel told us that there is no struggle for socialism, as such; you don't go out to the barricade and fight for socialism, that the workers are not led that way.

He explained to us that when the working class is ready to follow the Communist Party, that is, when it is possible to establish, to seize power and establish the dictatorship of the Proletariat, that the working class doesn't necessarily know, or the majority of them need to know that they are fighting for socialism. What they have to do is to be ready to follow the Communist Party in the battle against capitalist class.

Q Well, what was said as to what the members of the
(tr. 572) Party and the officials of the Party must do in order to get the members of the Proletariat to follow the leadership of the Communist Party?

A They said that the Communist Party and the mem-

bers of the Communist Party must go out among the workers and the masses and participate in their struggle and gain leadership in the struggles and work from day to day to gain the confidence of the working class and the masses and that that was the necessary day-to-day work of the Communist Party that had to be done.

Q Was anything said about opportunism, Mrs. Hartle?

A Yes. We were taught that opportunism is the word in Marxism-Leninism for betrayal of the working class and opportunism was, and the way you could betray the working class was to put the interest of one section of the Proletariat above that of another section of the Proletariat, like put the interest of the working class of the United States above the interest of the working class of the world. That would be one way that you would betray the working class as a whole.

Q What was—

A Or to allow a conflict of interest in the working class.

Q Was the term reformism used?

A Yes.

Q When were you taught—

(tr. 573) A We were taught in Political Economy that there are two types of reformism or reforms. There is a revolutionary reform. A revolutionary reform is some gain like a wage increase that is gained in struggle, such as, a strike, or lots of shop militant activity. That is a revolutionary reform. A gain that is made in struggle involving the masses.

And there is also a reformist reform. That is a gain that is made without struggle, a wage increase that the workers get without having to put up a struggle, that the business agents dicker about over the table and get the results with-

out having a strike and a lot of fury about it.

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(tr. 575) * * *

Q Mrs. Hartle, did you attend a course entitled The State?

A Yes, I did.

Q Who taught this course?

A Walter Neff.

Q What was the substance of the teaching which you received in that course?

A We were taught in that course, in the first place, that it was a very difficult idea to grasp the theory of the state, that it was not an easy concept to learn, the Marxist-Leninist idea of the state, and we were taught that Lenin had similarly taught that this was not an easy concept to grasp, and we were referred to a lecture that Lenin made at Sverdlof University in Moscow, in 1919, in which he said the same thing, that the subject was difficult to grasp.

We were taught that the state is an instrument of oppression of one class over another, that this instrument of oppression consists of bodies of men, such as, armies, police, and prison officialdom, and that a part of that apparatus, of course, is the buildings and arms that are used by these persons, that is, the force; the basic instrument of oppression is the force that is used by whatever class has the state in its power, so that the state was taught to be an instrument of oppression of one class over another.

(tr. 576) We were taught that—

Q I take it that is an instrument of forceful oppression?

A Force, I believe oppression, that is, the arms and the prisons. They are instruments of force. They are not administrative.

We were taught that the ancient slave society had a state of slave owners, that the slave owners ran the state in ancient slave society, and that in feudalism, the feudal barons and landowners controlled the state, vas a feudal state, and that under capitalism, the capitalist state is a state of the capitalist class.

These are class states, a state belongs to one class or another, and whichever class has the state, uses it to oppress the other class in the class struggle. We were taught that the capitalist state is not always in the same form, that there are various forms of capitalist state, that the capitalist state can be in the form of a Fascist government which is an open brutal, tyrannous dictatorship of the capitalist class through their state, but that it can be a Bourgeois democratic state, Bourgeois republic, that the capitalist class can wield the state veiled in a democratic form, have some democratic rights, some rights to vote, some rights for labor unions, and free speech, but that, nevertheless, this is still the capitalist state.

It is the, it has the means of forcibly suppressing and does (tr. 577) suppress the working class and the people generally.

Q Was anything said regarding the form of government in the United States?

A It was said that the Bourgeois state of our country, which is a Bourgeois country and has a Bourgeois state or capitalist state, whichever term you happen to use, that the

capitalist state of our country is a Bourgeois republic. It is a form of a Bourgeois republic, that the Government of the United States of America is a Bourgeois republic, and is a form of dictatorship of the capitalist class.

Q Now was anything said about the theory of the state which you have just explained, as the basis of the theory of the Proletarian revolution?

A We were taught that the theory of the state is the, is the basis of the theory of the Proletarian revolution. We were taught that it is impossible to understand who is ruling and how to supplant that rule without understanding what a state is. You have to understand what a state is, and what particular type of state you are confronted with before you can understand the theory of the Proletarian revolution and apply it, because you wouldn't know what you were trying to do, overthrow the state.

Q Was anything said as to what should be done with respect to the state?

A It was said that the Bourgeois state must be forcibly (tr. 578) overthrown by the working class led by the Communist Party. And it was further said that the struggles and activities of the Communist Party prepare the working class for this act of seizure of power.

Q In this connection was any reference made to dictatorship of the Proletariat?

A Yes. It was said that the Bourgeois state machine is not smashed after the seizure of power, but in the course of seizing power that the armies, the police, the prisons have to be dealt with and smashed up and rendered inoperative in the course of the seizure of power, that other matters, that some other matters in replacing the, a state, such as the, some of the administrative apparatus and

some other matters would take a longer period of time, but the forcible elements of the capitalist state must be smashed in the course of taking power, but some other things like reorganizing the banking system, or some matters like that, could be done in a somewhat longer process.

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(tr. 585) * * *

Q Mrs. Hartle, did you study a course called Struggle for Democracy?

A Yes.

Q Who taught that course?

A Jacob Mindel.

Q Will you tell the jurors, please, the substance of what you were taught in that course?

A I was taught in that course the basic concept, basic principle of that course is that the struggle for democracy is a struggle for socialism.

Q Were you given a general law of revolution in that course?

A That I don't recall.

Q Was there any explanation given you regarding the relationship between democracy and the class struggle?

A We were taught that to struggle for democracy was important in the pursuit of the class struggle to make possible the freedom and the avenues to organize and educate and teach the working class for organization, you needed the right to organize, and the ability to bring large federations of labor together, and to get the working classes as closely united together as you could. To educate (tr. 586) the working class, you needed to have the opportunity to put out papers and pamphlets and send speakers

and a lot of resolutions and a lot of material like that, and to train and steel the working class, was to lead them in struggles like strikes and demonstrations and all kinds of working class solidarity actions, and to teach them in the course of these fights who their main enemy is, who the enemy is, the American imperialist.

Q Was any comparison made between Social Democratic struggle for democracy and Communist struggle for democracy?

A Well, it was said that the Social Democrats, the Socialist is, that is, those of the Second International struggled for democracy per se, just for democracy's sake, that they struggled for democratic rights and democracy because they thought it was a good thing, it is a fine thing to have.

The Communist struggle for democracy is to make possible the possibilities to, probabilities to lead the working class to power, and after the seizure of power, to establish Proletarian democracy which is democracy for the first class, the way it was defined for the working class, and against the capitalist class.

Q Were you taught what education for socialism means to a revolutionary?

A Yes, I was taught that the Communists' concept of (tr. 587) education is not that you can teach the masses through books. We were taught that the masses, the classes and the masses don't learn through books, they learn through struggle and activities.

We were taught that the whole history of mankind proved that the masses in the huge majority don't learn through books or that type of learning, but that they learn through activities and struggle, the class struggle that has

taken place under every form of society.

Q Were you taught as to the form of struggle that educates the masses, Mrs. Hartle?

A Yes, the forms of struggle that educate the masses in the first place are the class struggles of the workers against the bosses, that the trade unions were described as schools for communism, and that is the very important education of the masses, through struggle, and specifically the working class, but that the working class and other people learn through such struggles as election campaigns, fights on lowering rents and lowering, controlling prices, or working for school programs, and a whole host of issues that somebody happens to be interested in at the time, the G.I. Bill of Rights, against Military, Universal Military Training, whatever the issue might be, Negro rights of various kinds, and that if the Communists get in there and lead those struggles in the Communist way, that the workers and (tr. 588) masses will learn from those struggles how to fight, how to unite, how to mobilize their forces, and will learn to recognize who the enemy is, American imperialism.

Q What were you taught as regards such struggles bringing about a revolutionary situation?

A Well, I was taught that these struggles themselves, these struggles themselves, at least, as far as the Communist Party is concerned, are not the key factor in bringing about the situation.

The revolutionary situation is brought about, the Communist Party said, by the very inevitable development of the contradictions of capitalism, the class struggle, the struggles on an imperialist scale and the colonial struggles, but that the role that the Communist Party plays and these struggles played, is preparing the workers and the

people to be ready to be able to take power, to know how to take power when such a situation does arrive.

Q Now at the time that such a situation does arise, what would be the plan and program of the Party?

A Well, the plan and program of the Party would be to lead the working class to seize power, to smash the Bourgeois state machine, establish the dictatorship of the working class or the Proletariat, and then to proceed to reorganize all industry on a Socialist basis.

Q In this course, this Struggle for Democracy, did your (tr. 589) instructor explain why the Bolsheviks were able to take power in Russia?

A Yes.

Q What did he say in that respect?

A He said that it was possible and relatively easy for the Bolsheviks to take power in Russia because of a number of subjective and objective conditions. The objective conditions were that there was a serious situation in the country as the result of the war, World War I, that the imperialist powers, the other imperialist powers were embroiled in this war and so busy with that that they didn't have the time and ability to put down this revolution and that some other situations obtained, objective situations, that made it relatively easy for the working class to take power there.

On the subjective conditions he said that the Bolsheviks were a trained, steeled and tested party, that they had gone through two revolutions. I don't recall the first one that he mentioned, but he did mention—oh, yes, I do—he mentioned the Revolution of 1905 and the February Revolution of 1917 as being rehearsals for the October Revolution.

Q Did he draw any lessons for the Communist Party in the United States from the experience of the Bolsheviks?

A Yes. The lessons that he drew and that we were to pass on, and he told us that, too, that it was necessary for the Communist Party to build, to train itself theoretically (tr. 590) and to participate in the struggles of the working class and the masses in order to fulfill the conditions of a Bolshevized party, a party of the new type.

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(tr. 590) * * *

Q Mrs. Hartle, did you have a course called Struggle for Peace?

A Yes.

Q Who was the teacher of that course?

A Jacob Mindel.

Q Will you tell us as you best recall the substance of (tr. 591) the teaching of that course?

A The teaching in that course was, although it was called the Struggle for Peace, in the class that we started with defining was war—

Q How was war defined for you, Mrs. Hartle?

A It was defined as being a continuation of politics by other, that is, forcible means. It was explained to us that wars are not accidental, that they just don't crop out here and there because somebody shoots somebody in Serbia but that wars, the groundwork for wars is laid, they are waged by classes, they are waged in class interest, and they are continuations of the politics preceding the war, and the peace that follows a war is a continuation of the politics of the war.

In other words, there is no, we were taught there is no big cleavage between what happens before a war and during a war and after a war, that the class relationships and class struggle have to be seen, and we were told that war is the class struggle on an international scene.

We were further taught that Communists are not pessimists who are against all war, but that Communists and Marxism-Leninism differentiate between times of wars. There are just wars and unjust wars. Unjust wars are wars for conquest, for aggrandizement. Just wars are wars of liberation, independence, for freedom, and the struggle (tr. 592) of the Proletariat in a civil war, when it is attempting to gain power, is a just war.

Q Do I understand, Mrs. Hartle, that under Communist theory wars have a class nature like politics?

A Yes.

Q And does this class nature determine whether or not a war is a just war or an unjust war?

MR. TAYLOR: Are those questions directed to what was taught in the class, Mr. Woerheide?

MR. WOERHEIDE: Yes, they are.

THE WITNESS: Yes. We were taught that the character of a war is determined by the classes who wage it, and in what interest the war is being waged.

A colonial people that is waging a war to gain its freedom from an imperialist power is waging a just war. A capitalist nation like ourselves, which is waging a war to conquer foreign markets, raw resources and material, is waging an imperialist and unjust war.

We were further taught that a Socialist nation is not

imperialist, has no need or desire to encroach on anyone else's territory and is, that it is impossible for it to wage an unjust war.

(tr. 593) BY MR. WOERHEIDE:

Q Were you taught as to how all possibility of war could be abolished?

A Yes. We were taught that capitalism and imperialism inevitably tend towards war. We were taught that war can be delayed or stopped with peace campaigns, but we were taught that capitalism, and especially capitalism in the imperialist stage, tends towards imperialist wars because of the competition among the imperialist powers, and that by the working class and the Communist movement gaining domination of the whole world and establishing socialism, that the driving motive for a war would be eliminated and there would be no more wars.

Q Were you taught that whether or not it was important as to who launched the initial attack to whether a war was just or unjust?

A No. Yes. We were taught that who took the first step has nothing to do with the character of the war. Long arguments in history about who shot the first shell don't determine the fundamental analyses of whether a war is correct or just or unjust. It is a matter of the forces, the class interest and what it is waged for.

If it is the working class waging a war for liberation, it is just. If it is the capitalist class waging a war for conquests, it is unjust.

(tr. 594) Q Were you taught as to how wars started by a capitalist government can be ended?

A We were taught that imperialist war started by an imperialist government or capitalist government in this stage of history can only be ended by the civil war of the workers against their own government.

Q In such a situation who supports the old regime?
A The army.

Q And who fights against the old regime?
A The army of armed workers.

Q And what were you taught as to who leads the armed workers?

A I was taught that the Communist Party leads the armed workers.

Q And what were you taught as to what the Communist Party is with respect to these armed workers?

A Well, I was taught that it was the vanguard of the working class, the general staff of the working class, the leader of the working class, and, therefore, of those armed forces as well.

* * *

(tr. 595) * * *

Q Mrs. Hartle, was there taught in the course, the Struggle for Peace, in the National Training School which you attended in 1946, a slogan used by the Bolsheviks in 1917?

A Yes, there was. The slogan was "Turn the imperialist war into civil war."

Q Do you recall a slogan about, that is, some teaching of a slogan about the duty of defeating one's own government?

A Yes. The slogan that was taught in that respect was that

it was the duty of the revolutionaries to lead the working class to defeat one's own government, an imperialist gov-
(tr. 596) ernment rather than supporting that government, by supporting the war and voting war credits and doing some other things like that. We were taught that that is the way the Second International did, the Socialist International, which was also called the Yellow International.

Q Mrs. Hartle, I read you a passage from Government's Exhibit 17, a letter to American Workers, by V. I. Lenin, and I ask you if there was any teaching with respect to this passage in the course entitled the Struggle for Peace:

He is no Socialist—

MR. TAYLOR: What page, Mr. Woerheide, please?

MR. WOERHEIDE: This is page 12.

He is no Socialist who does not understand that one cannot and must not hesitate to make even such a sacrifice and the sacrifice of a piece of territory, the sacrifice of a heavy defeat at the hands of capitalists of other countries, the sacrifice of indemnities to capitalists in the interest of victory over the Bourgeoisie, in the interest of transfer of power to the working class, in the interest of the beginning of the International Proletarian Revolution. He is no Socialist who has not shown by deed his readiness for the greater sacrifices on the part of his fatherland so that
(tr. 597) the cause of the Socialist Revolution may be pushed forward.

BY MR. WOERHEIDE:

Q Was there—

A Yes, we studied that quote in the class.

Q You studied that quotation. Was that quotation explained to you in this course?

A Yes, it was explained, that what was at stake in an imperialist war as far as the working class and the Communist Party was concerned was not what the capitalist had to lose. That was not what was at stake. What was at stake was what the working class had to gain, and we were taught that the Socialists of Europe in World War I were interested in helping their capitalist government save their colonies and make sure that they came out well in the war, whereas, and we were taught that it was the duty of Communists and revolutionaries not to worry about that, what the capitalists lose in a war, colonies or whatever, but to worry about defeating the capitalist imperialist government and setting up the workers government.

Q Were you taught as to whether or not there is such a thing as Soviet imperialism?

A We were taught that there is no such thing as Soviet imperialism, that this, we were further taught, that this is a lie that was invened in the first place by the Trotskyites (tr. 598) who are the theoreticians of the counter-revolution.

Q Was there any discussion regarding possible intervention by the Red Army of the Soviet Union where there is a struggle going on outside of its territory?

A Yes, there was discussion on that point. We were taught that whether the Red Army intervenes or not is not a matter of principle. It is a matter of tactics, the feasibility

for the benefit of the whole Communist movement, whether it should be done or not.

We were taught that it is not precluded, that the Red Army may not at some juncture intervene in a class struggle, battle, and that as a matter of principle if the situation warranted, if it would help the Communist movement on a world scale more to intervene than not to intervene, they would be justified in intervening.

Q Was there any reference that you recall was made with respect to Browder and the Tehran Agreement?

A Yes. There was a reference made that Browder, when he was giving leadership to the Communist Party in the United States, was using the Tehran Agreement as a starting point of analyzing the world situation, that this was an error on his part, that he should have started with the capitalist system as the starting point of his analyses of the situation in the world.

If he had done that, he would not have made the revision-
(tr. 599) ist and opportunist errors that he made.

Q Were you taught regarding whether or not the interests of the working class of America coincides with those of the Soviet Union?

A Yes, we were. We were taught that the interests of the working class of our country, in fact, of the working class of every country of the world, coincide with those of the Soviet Union, that the Soviet Union is the first country in the world in which the working class has taken power. It is a workers state, and as such, it is the fatherland of the working class of the world.

* * *

(tr. 601) * * *

Q Mrs. Hartle, were you taught a course at the National Training School in 1946 that was called The Party?

A Yes.

Q Who was the teacher of that course?

A Mary Himoff, H-i-m-o-f-f.

Q What were you taught regarding the Marxist concept of a party?

A I was taught that a party is the representative of a class, that a political party represents class interest.

Q Were you taught as to whether or not this is a fact that was concealed in the United States.

A Yes. We were taught that this fact is concealed in the United States by the two-party system, that in the United States the two-party system of capitalism conceals the fact that both parties are representing the same class, the capitalist class, and that as far as Marxism-Leninism is concerned, they are tweedledum and tweedledee.

Q Was there any teaching in this course regarding the revisionism of the Second International?

A Yes.

Q What was that?

A We were taught that the Second International had taken the revolutionary heart out of Marxism, the revolutionary core, and that although the Socialist Party of the (tr. 602) Second International were a large mass party, they had missed on the theory of the Proletarian dictatorship and the theory of the Proletarian revolution.

Q Were you taught as to the main reason why the working class needs a party of its own?

A Yes. We were taught that if the working class did

not have a goal of its own, separate and apart, it would not need a party of its own. It is because the working class, according to Communism, has a goal of its own for which it must achieve power in order to establish socialism.

It needs a party of its own to get to these goals, and that party is the party of Marxism-Leninism, the Communist Party.

Q Was this party described as being one of a new type?
A Yes, it was.

Q Will you explain that, please?
A We were taught that Lenin in analyzing the new stage of capitalism imperialism had shown that there was a new world situation, the situation of imperialism, and he showed that this is the era of Proletarian revolutions.

Well, in order to measure up to th new era of Proletarian revolutions, Lenin said, we were taught, we had to have a new type of party, a party that would measure up to this era of revolutions, a revolutionary party, a party of a new type with certain distinctive features to make it (tr. 603) possible to fulfill that role of leading the working class to victory in revolution.

Q Were you taught as to where the ideological principles of this party were laid down?
A Yes, we were taught that the ideological principles were laid down in Lenin's What Is To Be Done.

Q Were you taught as to where the organizational principles were laid down?
A Yes, we were taught that those were laid down in the pamphlet by Lenin, One Step Forward, Two Steps Back.

Q What were you taught as to what these organizational principles were, Mrs. Hartle?

A I was taught that these principles or features of the Party of the new type were that it was a vanguard party, that it was the highest form of class organization of the Proletariat, that it was an organized detachment of the working class or Proletariat, that it possessed an advance theory that it was the embodiment of the connection between the Party and the working class millions, beween the vanguard and the working class millions, and those are some of the features that describe the Party of the new type.

It was a Party of discipline and unity of will, democratic centralism.

Q Was it an organizational principle that the Party was an instrument to maintain the dictatorship of the Pro-
(tr. 604) letariat?

A Yes, it was an instrument. It was the instrument of the working class for the seizure of power and maintaining the dictatorship of the Proletariat.

Q Mrs. Hartle, you have already discussed the theory of exceptionalism, as I recall your testimony in connection with another course. Do you recall whether the theory of exceptionalism was also explained and refuted in the course on The Party?

A Yes, it was studied again there, and again refuted there.

Q Do you recall whether or not in this course on the Party there was a reference to a demonstration which occurred back in March of 1930?

A Yes, there was.

Q Will you tell us what was taught in that respect?

A We were taught that the Party led the huge, unemployed workers' demonstrations on March the sixth in 1930 which involved many, many thousands of persons, and that it was no accident that the date of March the sixth was chosen; that March the sixth, 1919, was the founding date of the Communist International.

MR. TAYLOR: Mr. Woerheide, can we be told where this is?

BY MR. WOERHEIDE:

(tr. 605) Q Do you recall where these unemployment demonstrations were held, Mrs. Hartle?

A We were told that they were held throughout the country, throughout the United States.

Q And throughout the United States were you told they were led by the Communist Party?

A Yes.

Q Were you taught in this course about strikes which occurred between the period 1930 and 1933?

A Yes.

Q What were you taught in that respect?

A We were taught that in the, that period, that the Communist Party which in 1933, that had fifteen thousand members, had led strikes in a number of industries involving workers that ran into the millions in numbers.

Q What were you taught with respect to the significance of these events, Mrs. Hartle?

A We were taught that the significance of this was that if the Communist Party would throw off the Brow 'er re-

visionism and would fully carry out its role of being active and participating in the struggles of the workers as it had done at that time before some revisionism crept in, that the Party would be in a much different and stronger position in the leadership of the working class of this country.

Q In this course was there teaching with respect to the (tr. 606) objective conditions which prevailed in 1933?

A Yes, there was.

Q What were you taught?

A There was teaching that in 1933 the objective conditions of a revolutionary situation obtained, that the crisis was very deep in this country, and that as far as the objective conditions were concerned, there was a situation where it would have been possible for the working class to be led to power.

Q Were you taught as to what was lacking at that time?

A We were taught that what was lacking at that time was a Bolshevized Party, a party of the new type, trained, tested and steeled and vanguard of the millions of working class.

Q Were you taught as to what action you and the other leaders of the Communist Party should take as a result of the lessons that you were being taught during this course?

A Yes, we were taught that in order to achieve the kind of Party that we needed, it was necessary above all to participate in the struggles of the workers and the masses.

Q Will you be more specific, Mrs. Hartle, regarding participation in the struggle of the masses.

A By that was meant and was taught, too, that it was necessary for the Communist Party first of all to be rooted in the basic industries of the country, that the Communist (tr. 607) Party had to be built in such industries as steel, railroad, auto, lumber, and other basic industries, the big

industries of the country, and that we had to build the Party in the basic industries of our respective territories that we came from, and take part in the labor organizations of those industries, and to work for leadership in those unions.

I recall Mary Himoff gave us an example of the great leadership, the great amount of positions that the Communist Party at one time held in some labor organizations, not only, but to a very large extent at that time, in the C.I.O. She explained to us that as we began to get a little bit off the track of Marxism-Leninism, there was a tendency to let other people of [sic] the top leadership positions, and then when it came to a struggle in these organizations, the Communists found that they lost a good deal of the influence that they had had in them, and she gave us that example, that the Communists want to work with other people in genuine unity, but that they don't want to work with them juso so that they can have a job and that the Communists may be pushed out.

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(tr. 621) * * *

Q Were you also taught other courses which were called practical courses?

A Yes.

Q Did you have a course called The Task of the Party Today?

A Yes.

Q Do you recall who taught that course?

(tr. 622) A It was taught by John Williamson.

Q Was that a theoretical course or a practical course?

A It was a practical course.

Q In substance, Mrs. Hartle, what were you taught in

this course?

A I was taught that the task of the Party today included in the first place bringing Socialist consciousness to the working class. In order to do this the Communist Party would have to fulfill its vanguard role.

Some examples were given us of how this vanguard role has to be fulfilled. One example was in the sphere of domestic policy. John Williamson told us that the Party had not fulfilled its vanguard role in relation to the railroad strike that had taken place not long before this school, and he taught us that in the coming maritime strike, it was necessary for the Communist Party to work, to mobilize the whole labor movement behind the maritime strike. He taught us that a general strike is not something that can be called just anytime that you want to call it, that preparation has to be made for general strike, that the workers have to learn how to come to each other's defense and how to jump into the struggle when it takes place, so that the whole working class will learn to move at once when a situation arises.

He gave us another example, in the sphere of foreign policy, of how the Party has to fulfill its vanguard role. (tr. 623) He said that up until now there had been an Anglo-Soviet-American unity, big-three unity, and that, of course, with this situation, we had been supporting in the main the foreign policy of the Government of the United States, but now there was something new in the situation. The new thing was that Winston Churchill at Fulton, Missouri, had called for an Anglo-American Alliance aimed at the Soviet Union, against the Soviet Union. This was the new feature in the foreign policy. And as a consequence the Communist Party had to be the vanguard in what was new in the situation and bring it to the working

class. And this meant turning the heat on American imperialism, American foreign policy.

He taught us further in the class that the, there is a difference between an average, honest trade-union leader and a Communist trade-union leader. He taught us that a Communist trade-union leader is equipped with Marxist-Leninist ideology which he gets from membership in the Party, and he taught us that Socialist and Communist consciousness does not arise of itself in the trade union struggle, but must be brought to it from outside, must be brought to it by the Communist Party.

He said that a Communist trade-union leader explains the connection between the immediate struggles of the workers, such as, for higher wages or shorter hours, and the ultimate struggle, the struggle for Socialism, shows them how there are two main contending classes, and the (tr. 624) working class is exploited, and these class struggles are taking place because of the exploitation, and the way to end the exploitation is for the working class to take power, and that the Communist Party is necessary to get this power, and that this is the type of consciousness that the Communist trade-union leader brings to the working class.

He taught us another part of fulfilling the vanguard role of the Party is to have a Communist Party of members that study Marxism-Leninism, as well as leaders that study it, and attempt to master the theory. He taught us, that another part of being a vanguard party is to be a party of struggle, that the Communist Party has been known in the past as a fighting Party, and that this fighting spirit had been practically killed by revisionism, and that it was necessary for us to have a Communist Party that led struggles and fights instead of trying to compromise or

smooth away the struggles.

He taught us—

Q By the way, did he make, did he cite any examples in this connection, regarding the failure of the Party to struggle?

A Well, I don't recall any at this moment.

Q Do you recall a reference to May Day activities?

A Oh, yes, I do recall that. He pointed out that in reference to struggle, that the only May Day Celebration Dem-
(tr. 625) onstration, that was held in the past in May of that year, that was held outdoors, was the one in New York City, and whereas in—and that all the other celebrations were held indoors in other cities and of the Party, but he reminded us that in years past there had been huge May Day Demonstrations of the workers and people in many cities, and that they were held outdoors and there were big parades with lots of slogans and banners and things like that.

Q Did he say what the Party should do in this respect in the future?

A He said that the Party should, along with other, along with organizing other activities, and demonstrative actions, should hold its May Day demonstrations out of doors in the form of parades and in the form of activities, rather than in meeting hall, just sit down and listen to some speakers.

He taught us in that class that the United Front tactic of the Seventh World Congress of the Communist International which was held in 1935, was just as valid today as it was at that time. He taught us that it is not enough for the working class to take up an issue projected by the Com-

munist Party, that the Communist Party's responsibility doesn't end there, that it is necessary for the Communists to work to raise the struggle to a higher level, to educate the workers in the course of struggle, and to raise that (tr. 626) level of consciousness to Socialist consciousness in the course of working on some of these broad issues, like wages, or speed-up, or some matter like that, that the working class has taken up.

He taught us that in the matter of recruiting members into the Communist Party that we must recruit basic industry workers from the concentration industries, that we must organize many shop and industrial branches of the Communist Party which had been abandoned in the Revisionist period under Earl Browder.

He taught us that in regards to the concentration policy we should remember that when we are concentrating on basic industries that this is not only important for the immediate situation, but that it is connected with the ultimate aim of working classpower and the obtaining of socialism.

Q Mrs. Hartle, do you recall any reference by Mr. Williamson to the independent role and the mass role of the Party in this connection?

A Yes.

Q What did he say in that respect?

A He taught us that the independent role of the Party, its own activities in its own name, are an important part of exercising its vanguard or leading role.

He said that the Communist Party must organize meetings, forums, put out papers, literature, and leaflets, speak in its own name to other organizations, before them, and (tr. 627) it must do this for the purpose of clarifying the

mass movement in which the Communists are also taking part, and the clarifying meant to give the workers the Marxist-Leninist information as to what is the real meaning of their struggle, what classes are involved, and what the aim of the struggle should be, and to give them the fundamentals of Marxism-Leninism in connection with these immediate struggles so that they can see that their immediate struggles, when they are led by the Communist Party, can lead to socialism and should lead to socialism.

Q Mrs. Hartle, were you taught the meaning of these terms "independent role" and "mass role"?

A Yes.

Q Could you explain to the jury what the meaning of these terms is, what the difference between them is?

A The independent role of the Party is the role of the Party in its own name. When it has a mass meeting and says the Communist Party is holding a meeting, and Communist speakers are going to speak, and it says it is the Chairman of the Northwest District of the Communist Party, and it is in its own name, that anyone that comes and listens to it knows that he is listening to the Communist Party. The same way with a newspaper or leaflet, when the Communist Party is exercising its independent role, issuing the leaflet on wages in its own name, it will say, We support the wage struggle of the workers; the reason we (tr. 628) support it, and then it goes on to deepen the understanding of the workers by saying why there is a wage struggle, who the classes are taking part in it, and how it is connected with foreign policy, what other things the workers should do besides struggle for these wages, and so forth. That is the independent role.

The mass vanguard role of the Communist Party is the

participation of Communist Party members in mass organizations, like trade unions, political organizations, pension organizations, veteran youth, women, Negro, and so forth. There the Communists are members in the mass organizations along with other members in there, and there they are projecting the policy in such a way that the organization as a whole will accept it, and there they are not, with some exceptions, but there in general and almost in ninety-nine per cent, at least, of these cases, they are not known as members of the Communist Party.

In the organization they are projecting the policies of the current program and many of the other ideas, but they do not reveal their membership in the Communist Party.

Q Mrs. Hartle, at this school did you also have a course called Methods of Agitation and Propaganda?

A Yes.

Q Who taught this course?

A George Siskind.

Q Was this a theoretical course or a practical course?

(tr. 629) A It was a practical course.

Q In substance, Mrs. Hartle, what were you taught in this course?

A In this course we were taught that the starting point of Marxist-Leninist educational activity in the Communist Party is to bring theory to the masses, that educational activity is not, doesn't have the main objective of teaching the members. This is subordinate to getting the Marxist-Leninist theory out to the working class and to the masses of people, and the reason the members are taught is so they can do this, so they can bring this theory to the masses.

We were taught that it was necessary to have an elabor-

ate educational apparatus in order to be able to carry through the whole principle of concentration of the Party, which is a policy of being able to concentrate all forces on one point, when necessary, in order to achieve the desired results.

We were taught that it was necessary, besides having an Educational Commission or Department, to have subcominittees in charge of issuing leaflets, issuing shop papers, issuing community and Negro papers, of issuing material and guiding the club educational program, of having a subcommittee to lead research projects, of having a subcommittee to lead theoretical projects, especially among (tr. 630) the more theoretically advanced in the Communist Party, to have committees that organize schools and classes, leadership training classes, and to have such an elaborate apparatus, including also the supervision of literature and press, and to have such an elaborate apparatus was necessary for the educational activity of the Party.

We were further taught that some of the mass features, features of the mass Marxist-Leninist educational program was to have broad non-Party Marxist schools for Communists and non-Communists, that these schools could teach a number of subjects, such as, Parliamentary Law, or Public Speaking, but that the ideology of Marxism-Leninism could only be taught by members of the Party, and that some professor that had studied it somewhere in some school on his own was not capable of teaching Marxism-Leninism in these schools.

We were told in these schools that it was possible and permissible and a good thing to have a broad Board of Directors, representatives of trade unions and other organizations, in such labor schools, but that the teachers of

the basic subjects of Marxism-Leninism had t, be Communists.

We were taught that the idea that teachers should teach, especially the Marxist-Leninist teacher, should teach without political supervision, without guidance, was a Bourgeois theory of education to leave the teacher to ramble (tr. 631) on as best he could by himself, and putting in his own ideas and his own quirks and whims was a Bourgeois theory of education.

Q What were you taught was the Marxist theory in this respect?

A The Marxist theory is that education in Marxism-Leninism must be supervised and guided by the Communist Party.

Q Besides these non-Party Marxist Schools and, by the way, I have one further question with respect to that.

Were these so-called non-Party Marxist Schools to be organized by the Party?

A The responsibility was to be taken by the Party and they were to be organized by the Party, but in the course of that, to attempt to involve other persons to help with the work who were not in the Party.

For instance, in getting students to the—

Q I see.

A To the School, or in getting help in purchasing a building, or renting one, and the administrative matters of that, to try to draw in other help, if possible.

Q Besides these broad, non-Party Marxist Schools, what other techniques were to be used to extend the Marxist-Leninist ideology to the masses?

A We were taught that we should make use of forums, either forums that we organize ourselves and invite other (tr. 662) speakers in, or to attend forums that someone else has organized and to speak there in them, to organize conferences, mass meetings, street meetings, shop-gate meetings, to make full utilization of the Communist Party press and literature, to organize shop and communist papers, Negro newspapers, in order to reach the broadest possible number of people.

Q Mrs. Hartle, what were you taught was the main form of educational activity within the Party itself?

A We were taught that the main form within the Party was the Club Educational.

Q And was there also another type of education that was used within the Party itself?

A The other type used within the Party was the organization of classes, usually would be night a week over a period of twelve or foruteen or sixteen weeks, or the organization of schools.

Q Was there also organized self-study within the Party?

A We were taught in the class that self-study is the basis of Marxist-Leninist education. Without self-study it would be difficult to have a, gain a mastery of Marxism-Leninism.

Q Were you taught that the Party should render help to Party members in connection with this self-study in some way?

A Yes, we were told that bibliographies should be fur- (tr. 633) nished to members so that they would have an idea of what they should study on certain subjects and would have a sort of a course outlined for self-study, and that the discussions should be held with them, that this

should be done on an assigned basis, certain people helping certain others, and that discussions should be held with them from time to time to encourage them to go forward and to answer their problems.

Q Mrs. Hartle, did you also have a course at this school called The Third Party?

A Yes.

Q Who taught this course?

A William Z. Foster.

Q What was his position in the Party at that time?

A He was the Chairman of the Communist Party of the United States then.

Q Was this a theoretical course, Mrs. Hartle, or a practical course?

A A practical course.

Q In substance, what did Mr. Foster teach you regarding The Third Party in the year 1946 at this school?

A In the year 1946 Foster taught us that the reason—that there is a reason why there is no farmer-labor party in the United States today, that it has this reason, has its historical roots, he said, that in the course of the American Revolution certain political rights were gained by the people. (tr. 634) the right to vote, bill of rights, and that as the working class developed in this country after the Civil War, these rights then obtained over to the working class.

Therefore, the workers in this country of the United States have certain elementary political rights, but that in the countries of Europe, especially in Central and Western Europe, the workers in a number of those countries did not have those elementary political rights. As a consequence, the working class in those countries organized po-

litically, and their basic demand was the right of suffrage, the right to vote, and that that was the main reason why there was no Third Party of the working class or farmer-labor party in this country, was because the workers had not seen the need of organizing such a party as they had seen in Europe, and he said as a result of this situation the trade-union movement in the United States, concentrated mainly on economic demands, like wages, hours and conditions, and when it did go into the political sphere, it was usually in regard to some legislation that related directly to the labor movement like slave labor or child labor or some things that more or less related directly to the economic conditions.

He taught us that the working class sees the need for organizing politically now, that it must have a party, a working, a party in which its allies are also organized, the poor farmers, in order to protect it against that—it has—(tr. 635) that with imperialism which continually develops on towards Fascism, the workers see the need of organizing such a Party in order to protect and keep the political gains that they already do have as a result of America's past.

He said that the organizing of The Third Party was a momentous and difficult and a very big job, and that it would require all of the political and organizational ability that the Communist Party possessed in order to help to bring it about, and it must be brought about.

Q What was to be the role of the Communist Party in bringing into existence this so-called Third Party?

A The role of the Communist Party, in the first place, was to project the idea theoretically, to convince the workers that they need this Party and why they need it, that they need it in their own defense, and to show the connection

between the need of the workers at home and the foreign policy, point out to the workers that American imperialism was driving towards World War III—imperialism inevitably does—and matters of that kind, to make the workers realize, all of them, that they need this Third Party, and to have it to defend the country and defend themselves.

The further role, I think I mentioned it, was that the Communist Party would have to organize it as well as to project it theoretically.

Q Mrs. Hartle, at this school did you also have a course (tr. 636) entitled The Negro Question?

A Yes.

Q Who taught this course?

A Henry Winston.

Q What was Henry Winston's rank and position in the Party at that time?

A He was a National Officer of the Communist Party.

Q On the National Committee?

A Yes.

Q And the National Board?

A Yes.

Q What were you taught by Henry Winston with respect to the Negro question, Mrs. Hartle?

A We were taught that the Negro question in the United States today is a special question, but in the era of imperialism this problem could not be solved aside from the working class and the Communist Party.

We were taught that the Negro people in the Black Belt of the United States are a nation and that they are an oppressed nation.

Q Where were you told that this Black Belt extended, Mrs. Hartle?

A We were told that it extended from the Southern borders of Maryland down through Mississippi and down through Louisiana, that it, its backbone, so to speak, is, (tr. 637) are some 172 counties, according to the 1940 census, which contained a majority of Negro people in their borders, and that a, some peripheral area which does not contain a majority of Negro people but is sort of woven in between these counties, is also a part of the area, and we were taught that this area coincides in the main with the plantation system.

Q What definition of the word "nation" was used in this course, Mrs. Hartle, and whose definition was it?

A The definition was that of Joseph Stalin, and came from his book, Marxism and the National Question.

The definition was that a nation is a stable community of people historically evolved, possessing a common language, territory, and economic ties and make-up manifested in a community of culture.

Q Was the phrase "national oppression" also defined?

A Yes, that phrase was also defined by Stalin in the same book as being a system of suppression and exploitation of one nation by another nation, one nation oppresses another nation.

Q Was the element of force inherent in this concept of oppression?

A Yes. It is done with force and by suppression.

Q Now, what were you taught, if anything, in this course with respect to self-determination?

A I was taught that a nation, any people that has all

(tr. 638) these qualities that I have enumerated in the definition, and it has to have them all to be a nation. It can't have just two or three of them. It requires all of these qualities to be a nation—have the right to self-determination, a right to determine their relation to other nations. A nation has a right to secede. It has a right to federate, whichever seems to suit it best in the situation in which it finds itself, and that the Negro people in the Black Belt of the United States being a nation, while they might not wish to do so, do have the right to secede from the United States.

Q And do I understand to establish a separate community outside the United States?

A To establish their own country, their own government, their own everything. They have that right. That is inherent in the theory of a nation.

Q What did he say, Mrs. Hartle, if anything, regarding using at that time a slogan, Self-determination, in an election platform?

A He said that while this is the basic theory of the Party and the basic position, programmatic position of the Party, that this slogan of self-determination should not be used in a sectarian manner in putting it into an election platform, that the Negro nation in the United States is a young nation, does not recognize itself as a nation, resists being considered as a nation and to put this slogan in such (tr. 639) a thing as an election platform would just serve to isolate the Communist Party from the Negro People.

Q Did he make any reference to a connection between the question of Negro, a Negro nation and the question of the class struggle?

A Yes. He taught us in the class that in the epoch of imperialism, which is the epoch in which the United States, in which the United States is in along with the rest of the

capitalist world, that in this era, the Negro people and the Negro nation can make no substantial progress without being in alliance with the working class, that the link to this is Negro-white unity, and that the specific link is the Negro working class, inasmuch as the nation has other classes besides workers, that the link between the working class and the Negro people as a whole is the Negro working class.

He taught us that the Negro nation in the United States cannot expect to fulfill its aspirations for full political, economic and social equality without being in alliance with the working class and led by the Communist Party.

Q Did he say—were you taught as to who must lead this struggle for liberation of this oppressed Negro nation?
A Yes, that the Communist Party must lead this struggle in our situation in this country today.

Q All right. Mrs. Hartle, were you also taught a course in this school called The U.S.S.R.?
(tr. 640) A Yes.

Q By the way, what are the initials U.S.S.R., stand for—
A The Union of Socialist Soviet Republics.

Q Is that another way of saying Russia?
A Yes.

Q Who taught this course, Mrs. Hartle?
A Jacob Mindel.

Excuse me. That course was taught by Max Weiss.

Q Do you recall any materials that were used in the teachings of this course?
A Yes.

Q What were they?

A The History of the Communist Party of the Soviet Union and a number of articles and speeches by Joseph Stalin.

Q Mrs. Hartle, what was the substance of the teaching of Max Weiss in this course?

A The substance of the teaching was that when we study the subject of socialism today, we study the Soviet Union, that it is not enough in the Communist Party to discuss and study Socialist principles in the abstract, as had been done in Socialist parties and movements in the past, that today there is a Socialist country in the world, a working class that has gained power, established the dictatorship of the Proletariat, and has exercised that dictatorship (tr. 641) and, therefore, the Communist Party studies socialism not in the abstract but in its concrete manifestations in the Soviet Union.

He taught us in the class that the, what the reasons were why it was comparatively easy for the Russian working class to take power and led by the Bolsheviks, which was the name of the Communists in Russia, and the reasons that he gave us were that the Bourgeoisie or the capitalist class there was an inexperienced Bourgeoisie, that they used a very stupid policy, and did not drive sections of the working class such as had been done in Great Britain and the United States and other capitalist countries.

Secondly, that this Russian capitalist class didn't get any help from the rest of the capitalist class of the world because the imperialists were in the war and they were split and divided and couldn't bring their attention to bear to crushing the Russian Revolution sufficiently early enough.

The other reasons given were that there was a Bolshevik

Party that was fourteen years old which had emerged in 1903, that he told us at that time that inasmuch as the Communist Party was then twenty-seven years old, if the Communist Party of the U.S.A. had used the same timetable as the Bolshevik Party that the dictatorship of the Proletariat would have obtained in this country in 1934, and that information was taught us in the class.

The second, another reason given was that the Russian (tr. 642) working class led, the Russian working class had been through two revolutions. The one of 1905 and the February Revolution of 1917, and that another condition given was that the working class and the peasantry in Russia had had a long-term alliance, that they had had a long-term agreement of supporting each other's interest and were in the habit of supporting each other's interest.

Those were given as the main reasons why the working class in Russia was able with comparative ease to gain power.

Q Mrs. Hartle, in—

THE COURT: Mr. Woerheide, let me interrupt you a minute.

Take a short recess. Let the jury retire.

(The jury retired to the jury room.)

(After recess.)

(The jury returned to the jury box.)

(The witness resumed the witness stand.)

MR. SMITH: Mr. Woerheide—if Your Honor please,

there is a matter we would like to take up with the Court. Take about five minutes, and perhaps at the noon recess, just after the jury leaves and before we adjourn.

THE COURT: All right, sir.

BY MR. WOERHEIDE:

Q Mrs. Hartle, just prior to the morning recess in dis- (tr. 643) cussing what was taught you by Max Weiss in the class on the U.S.S.R. in the 1946 Stalin-Foster School, you had just mentioned, as I recall, a reference to an alliance in Russia at the time of the Russian Revolution of the working class and the poorest peasantry as a factor in bringing that revolution about.

Was any reference made by Max Weiss concerning a group which corresponded in the United States to the Russian peasantry of the revolutionary period?

A Yes. A reference was made that the poor segment of the poorest farmers in the United States are the Negro people, and especially in the South, and that the peasant, that the peasant question is the backbone of the national question, and that the peasantry in terms of American people will be in a large part the Negro people of the South.

Q In this course, Mrs. Hartle, were you taught by Max Weiss just how long it took for the Revolutionaries to seize power in certain parts of Russia at the time of the October Revolution?

A Yes. He taught us that power was taken in one day in Petrograd, in a couple of days in Moscow, and that throughout the whole country of Russia it was a matter, a longer matter of time, of months.

Q Did they teach you how that power was seized in Petrograd and Moscow and other areas of Russia?

(tr. 644) A He taught us that it was a forcible seizure of power through the destruction of the existing Bourgeoisie state machine and the establishment of a Proletarian state machine.

Q What did he teach you with respect to the task which at that time confronted the Russian Proletariat led by the Bolsheviks?

A He taught us that the task that confronted the Russian Proletariat led by the Bolsheviks was, one, the smashing of the Bourgeoisie state machine. He said that the armed forces, courts, prisons, administrative apparatus, police, had to be smashed, that one of the first things that was done was to issue a decree forming a Red Army and Navy, but that it was not possible to form this Red Army and Navy just in a day or two and that the first steps that were taken were to attach commissars from the Bolshevik Party to the old officers' staffs, that immediately Red guard units were formed, and that a workers' militia was established.

He taught us that the police was liquidated and that the first step that was taken in the Russian Proletarian Revolution was to set up an all-Russian Extraordinary Commission in, to take the place of police, which was known as the Vezcheka, V-e-z-c-h-e-k-a.

He told us that the smashing of the administrative bureaucracy was a longer process and took a longer length of time.

(tr. 645) Q What did he say about nationalization of land?

A He said that another task of the, facing the Russian

working class led by the Bolsheviks was the nationalization of the land, that they confiscated the land of the church, nobility, and landlord class, and he taught us that today land in the Soviet Union is not owned by private individuals but is owned by the government. All land is owned by the government.

He taught us that another task that faced the Bolsheviks was the nationalization of industry, and that in the first stages of the revolution not all industry was nationalized but that the banking, railroad, communications, heavy industries and foreign trade were summarily taken over by the Bolsheviks' government as government spheres instead of spheres of private operations, and he taught us that the ending of the war with Germany was another task that faced them to secure peace and that to this effect they made the Brest Litovak, L-i-t-o-v-a-k, Peace Treaty, which was a compromise peace treaty, in order to give the Proletarian Revolution a chance to pull itself together and to be successful.

Q Did he teach you anything regarding the official status of the Communist Party in the Soviet Union?

A Yes. He taught us that in the Constitution of the Communist Party, he taught us that in the Constitution of the Soviet Union the Communist Party is mentioned. But that (tr. 646) the Communist Party of the Soviet Union is not a state organization.

He taught us further that in the Constitution of the United States no political parties at all are mentioned. And he said that there is only one party in Russia in the Soviet Union because there is only one class to be represented, that an opposition party in the Soviet Union would have to represent the interests of another class and would, therefore, be counterrevolutionary.

Q Recall Max Weiss discussing World War II in his course on the U.S.S.R.?

A Yes, Max Weiss said in this course that the imperialist phase of World War I, the first phase of World War II was an imperialist war, a phony war, not a fighting war, and that for the Communist Party of the United States to have supported that war on the allied side at that time would have meant attacking the Soviet Union through Finland.

Q Mrs. Hartle, were you taught whether or not the Communist Party in the United States in preparing for the Proletarian Revolution shall be guided by the experiences of the Bolshevik Party in Russia at the time of the Russian Revolution?

A Yes, we were taught the Communist Party should study very seriously the History of the Communist Party of the Soviet Union, that that was one volume which (tr. 647) more than any other volume would give experience and guidance to the American working class.

Q Mrs. Hartle, at the closing of this school were any remarks made regarding what you and the other students of the school should do with respect to what you had learned there?

A Yes, there were remarks made that the students—

MR. TAYLOR: Excuse me, Mr. Woerheide.

BY MR. WOERHEIDE:

Q Just a moment. Will you tell us what type of session this was, who was in charge of it, who attended it?

A There was a session in the National Training School in which a resolution was considered, the discussion among

the students and with the Director of the school in charge was to form a resolution to be passed by the school.

Q Who on the faculty attended this session, Mrs. Hartle?
A Jacob Mindel.

Q Would you tell us what happened at that time?
A At that time a resolution was drafted and was passed on by the student body.

Q What was the substance of that resolution, as you recall it?
A The substance of the resolution was to express what the students felt they had learned in the school, that they had deepened their understanding of Marxism-Leninism, (tr. 648) and that they would be more able in carrying out the practice and policies of the Communist Party, would be more effective in carrying these tasks of the Party out when they went back to their respective districts and assignments.

The resolution thanked the National Committee for having made it possible to come to this school in order to study the way they had. The resolution said that the students felt that the school had made a big contribution to the struggle to root out all remnants of Browder revisionism, from Marxism-Leninism. Those are some of the things that I can recall.

Q Did Mr. Mindel make a talk telling you about how you should apply the knowledge that you had acquired?
A Yes.

Q Was this talk made on this occasion?
A It was made at the end of the school.

Q Yes?

A In the session.

Q In substance, Mrs. Hartle, what did he say?

A He said that the students who had been in the school should not now quit studying, that they should continue their study of Marxism-Leninism inasmuch as self-study is the basis of a fuller grasp continually of Marxism-Leninism, and he said that it was the duty of persons who had learned the theory of Marxism-Leninism to bring it to the rest of (tr. 649) the Party and to bring it to the masses of the workers and people in the struggles in which we would be participating.

Q Following the school, Mrs. Hartle, did you return to Seattle?

A Yes.

Q Did you resume your connection with the Communist Party in the Northwest District?

A Yes.

Q Were you informed concerning the evaluation of your work at this school?

A Yes.

Q Who informed you concerning this?

A Henry Huff.

Q What was his position at the time?

A The Chairman of the Northwest District of the Communist Party.

Q What did he tell you regarding the Party's evaluation of your work at this school?

A He reported that the evaluation of my work was that I had been a very good student and that this information had been given him by Henry Winston.

Q Upon returning to Seattle, Mrs. Hartle, what respon-

sibilities did you assume in the Party?

A For a time I was Educational Director, for another few months, of the Northwest District.

(tr. 650) Q Thereafter did you teach in Party schools?

A Yes.

Q Did you also teach in other schools that were maintained by the Party but which were not called Party schools?

A No.

Q Was there such a school maintained by the Party out in Seattle?

A Yes.

Q What was the name of it?

A It was the Pacific Northwest Labor School.

Q Had you previously taught in that school, Mrs. Hartle?

A I had taught in it when it was still known as the Seattle Workers School.

Q When was that?

A In the 1942, '43 and '44.

Q Was it the same school excepting it was known by a different name?

A Not exactly the same school. The Workers School was aimed primarily at Communist Party members. Then that was evolved into the Seattle Labor School and that its aim was to try to attract other persons in some numbers besides just Communist Party members, and then that was changed to the Pacific Northwest Labor School where a considerable effort and considerable success was made in obtaining other students besides Communists, and I think (tr. 651) that sometime the Communist Party rented that building to hold its own District full-time training schools.

There I taught in the building but not in the school.

Q This school, what was the name of it again, the Pacific Northwest—

A Pacific Northwest Labor School.

Q —Labor School. Was that a school that was controlled by the Communist Party, Mrs. Hartle?

A Yes, it was.

Q Were the courses on political subjects in that school taught by members of the Communist Party, if you know?

A In the Pacific Northwest Labor School?

Q Yes.

A Yes, the courses on Marxism-Leninism were taught by leaders of the Communist Party and members of the Communist Party.

Q Now, Mrs. Hartle, after you returned to Seattle did you make use of the notes you had kept and the teaching you had received at the Stalin-Foster School in teaching members of the Party in the Northwest District?

A Yes, I did.

Q Do you recall what schools and what classes you taught in the Seattle area after you returned from the Stalin-Foster School?

(tr. 652) A Yes.

Q What were they?

A I taught in a District full-time, one week, training school, in 1946, after I had returned from the school, and there I taught the subject of Political Economy.

In 1947 I taught in another full-time District Training School, a two-week full-time District Training School, and there I taught the subject of the basic theory of the Com-

munist Party.

In 1948 and '49 in that winter period, I taught a class of South King County Functionaries of the Communist Party one night a week on the theory of Marxism-Leninism, using the material on Political Economy, Dialetical and Historical Materialism and the other material of the school, going through them one after the other.

Q Do you recall how many weeks that course lasted?
A About fourteen weeks.

In 1948 and '49 and '50 I taught in a large number of week-end schools in the, in Seattle, in Tacoma, Washington; Everett, Washington; Bellingham, Washington; and Spokane, Washington, on the National and Negro Question. That was a series of class, week-end schools, in these places.

I also taught classes in Tacoma, Washington, in the 1949-50 period based on the outline, the Fundamentals of Marxism-Leninism and used the National Training School (tr. 653) notes also. That was a course of about fourteen weeks, and during that period I taught other schools and classes in Seattle and other cities in the State of Washington.

Q Did you also hold Branch and Section Educationals in various places at various times?

A Yes. I, during that, during that period was continually attending Branch meetings all over the Seattle and in the latter part, all over the state, and was continually attending Section meetings and giving Educationals on some part of the Party's theory.

Q Do you have Exhibit 25? Yes.

Mrs. Hartle, I show you Government's Exhibit 25 and ask you if you can identify this document?

A Yes.

Q What is it?

A It is an outline on the Fundamentals of Marxism issued by the National Education Committee of the Communist Party U.S.A. It is the outline that I referred to that I used in the classes in 1948, '49, '50 period, and specifically referred to in the Tacoma class of fourteen weeks on Marxism-Leninism.

Q Who was National Education Director at the time this outline was prepared, Mrs. Hartle?

A Max Weiss.

Q Did you receive that in your capacity as Educational (tr. 654) Director of the Northwest District of the Party?

A Yes.

Q How many copies did you receive?

A We received several copies, as I recall, ten or twelve copies.

Q Did they suffice for your needs?

A No.

Q What did you do?

A Under my direction at that time, I was Educational Director, 200 copies of it were reprinted, were remimeographed of that outline for the distribution to the Sections and Clubs in our District.

Q Mrs. Hartle, do you recall a class for trade-union leaders which you took over?

A Yes.

Q Do you recall who taught this class prior to the time that you took it over?

A Yes. That was taught by Andrew Remes, the District Labor Director, before I took it over.

Q Who were the students in this class?

MR. TAYLOR: Excuse me, Mr. Woerheide, can we know when?

BY MR. WOERHEIDE:

Q Do you recall when it was you taught this class, Mrs. Hartle?

(tr. 655) A In 1947, 194— around that winter.

Q Who were the students in this class?

A 1948.

The students were members of the Party in leading positions of influence in the labor movement, in the trade unions.

Q Do you recall the texts you used?

A Yes, I recall some of them.

Q Which ones do you recall?

A I recall that we used the Communist Manifesto, by Karl Marx; Left-Wing Communism: An Infantile Disorder, by Lenin and Marx; and the Trade Unions, by Losovski, and that we used other material such as I used in other classes on Political Economy and Dialectical and Historical Materialism and matters of that kind.

Q Who asked you to take over this class, Mrs. Hartle?

A Henry Huff.

Q Do you recall any conversation you had with him at this time?

A Yes.

Q Will you tell us what that was, please.

A The conversation was that he told me that inasmuch as Andrew Remes was leaving, that it would be necessary for me to teach this class of trade unionists. I said to him that I wondered whether I would be qualified to answer (tr. 656) the questions and meet the problems of leading trade unionists, inasmuch as my experience in the labor movement was somewhat limited, and he said that what the, what the trade unionists needed to learn I could teach, that they needed to learn Marxism-Leninism, that I didn't need to worry about telling them how to be a business agent They could figure that out themselves, but it was Marxism-Leninism is what I was supposed to teach them, and that I could do that.

Q Mrs. Hartle, in this course that you taught, did you give any teaching with respect to sectarianism?

A Yes.

Q What did you teach in that respect?

A I taught that sectarianism plays into the hands of the enemy, the enemy being American imperialism and the capitalist class.

Q Well, did you teach what sectarianism was?

A Yes.

Q What did you teach in that respect?

A I taught that sectarianism in the shouting of revolutionary phrases, phrase mongering, just putting forth the fundamental principles of Marxism-Leninism as they are written in the basic program without any explanation of what they mean to the workers today, or how they will get to where they want to go, socialism; that sectarianism is a person who reads the basic material and then spouts it (tr. 657) willy-nilly with no concern as to how it will be

taken, and having no beneficial effect for the working class struggle, and I taught in the class that we must avoid sectarianism, phrase mongering, beating our breasts and saying we are revolutionaries and we want the dictatorship of the Proletariat, but that what we needed to do is to get into the struggle of the masses, be in their organizations and trade unions, get to work on the issues that the workers and people are interested in, and then to deepen the understanding, the theoretical understanding of the workers in the course of these struggles, but in such a way as not to drive them away or to isolate the Party from the class or the masses.

Q Mrs. Hartle, in this course was there any discussion with respect to specific type of problems, such as, a demand for a wage and such as negotiation with an employer?

A Yes. In the class I taught that the Communist Party has to be the vanguard and is the vanguard and that it must, trade unionists must act like a vanguard in the trade unions, and when the workers feel that, well, they probably can get a ten-cent-an-hour wage increase and maybe it won't be very much trouble to get it, that the Communist leadership will give leadership to the workers and even enthuse them and convince them that they can get twelve cents an hour, and if the workers say, well, but it might mean a strike or trouble, then the trade union leader ex- (tr. 658) plains that, how this struggle can be organized and how you can get a list to support the struggle, and how it's much better to make twelve cents with a struggle than ten cents without one, because that teaches the workers how to fight and next time it comes around, if you teach him with one strike, the next time it will be easier to get the twelve cents without striking and very many matters along that line.

Q Was there any discussion in this school as to whether or not a member of the Communist Party in a trade union organization should expose his membership?

A Yes. There was. There was discussion that it was very important for the Communist Party to work in the trade union movement, and specifically, to work in trade unions that did not have a left progressive or Communist leadership, that it was necessary to work in these organizations and be in them and by calling themselves Communists or divulging that they are members of the Communist Party in many cases they would be summarily expelled out of the union because many of the unions wouldn't allow Communists to be in them, and that in addition to that even if the union wouldn't expel them, that to get up and say you are a Communist would make it difficult to give leadership in the union and to gain the confidence of the workers, leading them in their struggles, so that eventually many of them would join the Party after their confidence was established, whereas, if they found it out pre-
(tr. 659) maturely, they would just shy away from that person and not learn anything more from them.

Q Now, Mrs. Hartle, did there come a time when, as an official of the Northwest District of the Communist Party, you and your fellow officers of the Party were called upon to put into practice the teaching which you had received at this school about the necessity for establishing The Third Party?

A Yes.

Q Will you tell us how that came about, Mrs. Hartle?

A In 1947 the Communist Party said that it was necessary to have a Third Party and it said that supporting the Progressive Citizens of America was a correct step in that direction, that the Communist Party should support and

help organize, help organize this organization.

Then the Communist Party said that the Third Party should take the form of the Progressive Party and it said that the P.C.A., the Progressive Citizens of America, had just been a forerunner and that now that a Third Party should be established, and that the program of the Party then that was carried out was, was the first to carry through the founding of the Progressive Party in the State of Washington. In preparation for the founding convention of the Progressive Party in Seattle, Washington, the Communist Party members were instructed to take part in securing signatures of persons to enforce this founding con- (tr. 660) vention, and the technique was that if twenty or so persons signed it, the person could be a delegate representing them at the founding convention.

Q Mrs. Hartle, in obtaining these signatures, did the Party operate only through the Party structure, or did it also operate through other organizations?

A Yes, it operated through other organizations. The Party through its influence with members in trade unions had a number of trade unions and other organizations endorse the idea of founding the Progressive Party.

Another thing that the Communist Party did that time in preparation was to withdraw a number of Communists who were in the Democratic Party precinct organizations in the City of Seattle, and that was organized so that the Precinct Committeemen, who were Communists, plus as many others as they could convince who were not Communists, would leave in a body out of these precinct organizations, and some officials in the Democratic Party resigned, stating that what was needed was a Third Party, and these were Communists who were in the Democratic Party at that time.

Q Now did there come a time when there was an election campaign in which this Third Party participated?

A Yes, there did.

Q What did the Communist Party do in that respect?

A Well, the Communist Party specifically, the District Board of the Northwest District, discussed and decided (tr. 661) the arrangements for the founding convention of the Progressive Party, for the officers of the Progressive Party, for the candidates that were to be selected to run, and through the decisions of the District Board and Committee the whole Party participated in campaigning for these candidates, and trying to help get them elected.

Q Did this Progressive Party have candidates on the national ticket, Mrs. Hartle?

A Yes, it did.

Q Did they have a candidate for president?

A Yes.

Q Who was he?

A Henry Wallace.

Q Did they have a candidate for vice-president?

A Yes.

Q Do you recall who he was?

A Glenn Taylor. As I recall he withdrew, and before the campaign was finished.

Q Did they also have candidates for various local and state offices?

A They did in the State of Washington.

Q How many votes, if you recall, did this party poll in the State of Washington?

A I don't recall the number of votes. I know it was not large.

(tr. 662) Q In connection with this campaign, did the Party arrange speaking tours for the candidates?

A Yes, it did.

Q Did they arrange other types of meetings?

A Yes, the Party organized forums so that candidates could speak. It organized speakers of the Progressive Party, leaders, of the Progressive Party to go to any and all possible organizations in order to popularize the Progressive Party and gain support to it. It organized conferences on various issues, such as, workers, and veteran and pension and Negro and other needs and made it, made these conferences available for Progressive Party leaders to speak, to popularize their organization.

Q Did the Party put out any literature in connection with this campaign?

A Yes. The Communist Party put out the Northwest edition of the Daily People's World of San Francisco, and in that edition carried a great deal of news about the Progressive Party, its candidates, its program, the need to campaign for it, and the Communist Party also issued literature and leaflets in great abundance, supporting their idea of an independent Third Party.

Q Mrs. Hartle, do you recall a period when the Party engaged in an action program called The Stockholm Peace Pledge?

(tr. 663) A Yes.

Q When was that?

A That was around the beginning of 1950, latter part of 1949.

Q Did the Party receive instructions from the National Organization regarding this campaign?

A Yes, it did.

Q Was this campaign discussed among the District leadership of the Northwest District of the Party?

A Yes.

Q What was your position at that time?

A At that time I was the Educational Director of the Northwest District. I was also at that time in charge of youth work, literature work and the Aircraft Concentration Committee.

Q What instructions did you receive, Mrs. Hartle, regarding this Stockholm Peace Pledge campaign?

A The instructions we received was that the signature campaign for this Stockholm Peace Pledge was to receive the top priority in the Communist Party, that every bit of its resources, political, organizational, educational, had to be thrown behind this signature campaign.

The program of action to be carried out included pushing this pledge in the press of the Party and printing it there, so the people could clip it out and sign it and ex-
(tr. 664) plaining all about it.

It included putting out many, many leaflets, in the hundreds of thousands of leaflets, so that people could sign those leaflets and be a part of the signature campaign. It included the organizing a concrete program of action in every single Section and Club of the Party to see that basic working-class neighborhoods are canvassed, that shops where workers come out of shops are covered, that big gatherings such as baseball games or church meetings, and other large gatherings were to be covered where lots of people are going by and there is a very intensive drive to secure a large quota of signatures to that Stockholm Peace Pledge, and a part of the plan was to use every ounce of influence in the mass organizations and trade

unions, to have them to endorse the pledge, to have them to work for signatures for it, wherever you could, wherever that wasn't possible, to engage as many members of the organizations independently in doing it, and a program of very intensive, concrete and diversified character was carried through on that in order to get that goal of signatures.

Q Mrs. Hartle, in the discussions which you had concerning the Stockholm Peace Pledge on the District level at that time, was anything said about the relative position of the United States and Russia with respect to the possession of the atom bomb?

(tr. 665) A Yes.

Q What was said?

A Well, it was said that the United States had the atom bomb, and that the United States foreign government was pursuing an atom bomb diplomacy of threatening the Soviet Union with war because it had this atom bomb, and the Soviet Union didn't have it.

Q Do I understand the Soviet Union did not have the atom bomb at that time?

A They did not.

* * *

(tr. 666) * * *

Q Mrs. Hartle, I show you document marked for identification as Government's Exhibit No. 35 and I ask you if you can identify it?

A Yes. This is an outline issued by the National Education Department of the Communist Party on China.

Q At the time this was issued what was your position in the Party?

A I was the Educational Director of the Northwest District.

Q Did you receive a copy of that outline in your official capacity?

A Yes, I did.

Q Is that a copy of the outline which you actually received?

A Yes, it is.

Q Is that particular copy which you have in your hand—

A Oh, you mean was this my own copy?

Q Yes, or one of your own copies?

A Yes, this was one of my copies.

Q Thank you. Well, what was the approximate time when you received this, Mrs. Hartle?

A It was in 1950, early part of 1950.

(tr. 667) Q Over a period of time had you received instructions from the Communist Party with respect to the so-called China problem?

A Yes.

* * *

MR. WOERHEIDE: Can you tell us in what years you received instructions, Mrs. Hartle?

THE WITNESS: Yes, I think so.

BY MR. WOERHEIDE:

Q Will you tell us what particular instructions you received and particular years, if you can recall that?

A In the early, around the 1938 period, the Communist Party received instructions to circulate the magazine, China

Today, and did so for a several-year period and called for nonintervention on the part of the U.S.A. in the affairs of the Chinese people or the Chinese Government, hands-off policy, to stay out of China, and in the period of 1950 I specifically recall that when the Chinese Communist forces were, had taken Manchuria, and were seemingly about ready to take over the, had taken Northern China and were (tr. 668) about ready to take over the Central and Southern China, that at that time the Communist Party carried on an extremely intensified campaign of hands off China, no intervention in the internal affairs, that this is American imperialism to interfere in their affairs, and called for a campaign to support the recognition of China even before the new government had been formed over there, but campaign ahead of that, that the United States should recognize the new Chinese Government which was going to be set up as soon as the victory was finished, and called for trade with China. And the Communist Party, on the West Coast, had the assignment of concentrating on the trade-with-China question, and said that many business interests would give some support to the new China on the basis that they had been assured that they could trade and increase their trade.

Q Mrs. Hartle, the policies that you have just outlined as having been advocated by the Party, are they set forth in this document which you have in your possession?

A Yes, they are.

MR. TAYLOR: Your Honor, I will object to that. The document speaks for itself—a conclusion of the witness.

THE COURT: Objection overruled.

THE WITNESS: Yes, sir; they are.

MR. WOERHEIDE: Your Honor, I ask that the docu-
(tr. 669) ment be received in evidence.

* * *

Q Mrs. Hartle, is there a section set forth in that document called Actions Proposed?

A Yes.

Q Were those the instructions sent out by the Communist Party National Organization as to what local organizations of the Party should do in the way of action with respect to this campaign?

A Yes, they were.

Q What action were you told to take, Mrs. Hartle?

A We were told to connect the educational, all educational work with the China issue and we were told to organize picket lines around the China issue in as many ways as possible.

(tr. 670) We were told to organize mass meetings, forums, conferences. We were told to get as many organizations as possible on record on the China policy, and we were told to utilize the press and literature and leaflets in making known the Communist Party's position, a number of actions like that.

Q Mrs. Hartle, as Educational Director of the Party in the Northwest District, did you set in motion an action program pursuant to those instructions?

A Yes.

Q Who participated in this action program?

A The participants were the members of the Communist Party and as many other persons as they could involve in it.

Q Mrs. Hartle, do you recall a period when a war situ-

ation broke out in Korea?

A Yes.

Q Do you recall the approximate date?

A Well, it was in the early part of 1950.

Q What was your position in the Party at that time?

A I was the Educational Director of the Northwest District.

Q Did you have other responsibilities at the same time, Mrs. Hartle?

A Yes, I did. I was Director—

Q What?

(tr. 671) A I was Director of the youth work, in charge of literature work on the District Board and District Committee of the Communist Party, and on the Negro Commission of the Northwest District.

Q What instruction did you receive from the National Organization of the Party with respect to the Korean War, Mrs. Hartle?

MR. TAYLOR: May we have the date, please, Mr. Woerheide?

THE WITNESS: The date was the early part of 1950. The first part of 1950—I don't remember the exact date of the outbreak, but it was in the first part of 1950.

BY MR. WOERHEIDE:

Q You received these instructions at the time that war broke out; is that correct?

A Yes, that is correct.

MR. TAYLOR: I object. Didn't she answer she received

them early 1950?

MR. SMITH: Leading on the last question.

THE COURT: Well, I think she previously had said that the Korean trouble began in 1950, had she not?

THE WITNESS: I had said that.

THE COURT: And what is the objection now?

(tr. 672) MR. TAYLOR: Well, the last question I thought was leading her to a different answer, Your Honor, seemed to me she had said the instructions were received in early 1950, and then Mr. Woerheide led her to say that came when the war broke out.

THE COURT: Well, that is the reason I mentioned her previous statement. I think the question is justified on that basis.

BY MR. WOERHEIDE:

Q Mrs. Hartle, did you receive instructions regarding the Korean War from the Party prior to the outbreak of the Korean War?

A No.

Q When did you receive these instructions in relation to the time when the Korean War started?

A Just immediately after it was started, in a few days.

Q What were these instructions, Mrs. Hartle?

A These were instructions, were to oppose the Korean War as a war of imperialist aggression on the part of the U.S.A.

Q What were you told to do?

A We were told to protest the action of the United

States in supporting that war, to protest to the President, and State Department; and Senators and Representatives of (tr. 673) the Congress, and to many other political people; to raise the question and get protests from trade unions, mass organizations; to utilize the press and literature and leaflets, and one thing we were told to do immediately was to issue a large issue of leaflets, of some fifty thousand, or thereabouts, a very large issue, using the slogan "Stop the War in Korea," "Stop the Drive to Imperialist World War III."

Q Was anything said about meetings?

A Yes. We were told to hold meetings in which speakers will expose that this is an imperialist venture on the part of the American imperialist government, to hold street, shopgate meetings, street meetings, hold discussions in all the branches.

Q Pursuant to these instructions, Mrs. Hartle, to hold meetings, did you, in fact, hold such meetings?

A No, we did not hold such meetings on the subject until we got instructions.

Q After you received instructions to hold meetings, did you in fact hold such meetings?

A Yes, then we did.

Q What type of meetings were they?

A They were mass meetings, organized in rented halls, in Washington Hall, Firnish Hall, the Swedish Club Halls in Seattle. They were meetings that had an attendance of some five hundred or even less, and some would be more. (tr. 674) almost up to a thousand and—

Q Did you have street-corner meetings also, Mrs. Hartle?

A Yes, we had many street-corner meetings during that

period of the Korean War at which I spoke.

Q Can you state whether or not members of the Communist Party were ordered to participate in this activity, that is, members on the lower echelons of the Party?

A Yes, they were.

Q Now did you carry out the instructions to get resolutions passed by other mass organizations?

A Yes.

Q Did you carry out the instructions to have letters written?

A Yes.

Q To the President of the United States and other officials of the United States?

A Yes.

Q Do you recall any statements being issued by the Party at this time regarding the alleged commission of atrocities by American soldiers?

A Yes.

MR. TAYLOR: May we have the time, please, Mr. Woerheide?

BY MR. WOERHEIDE:

(tr. 675) Q When were these statements made, Mrs. Hartle?

A They were made during the Korean War in—well, around the middle of 1950, and latter part of 1950, that I can recall.

* * *

THE COURT: Suppose we take a break at this time.

* * *

MR. TAYLOR: I think it does. May I make one other point, Your Honor, which I think it will not take as much time.

When we had the conference in Chambers with respect to the reports on Mr. Lautner's testimony, Your Honor followed the procedure set forth in Section 3500, that Your Honor would examine the reports and excise those portions which are not relevant to the testimony, and that, of course, is in accordance with Section 3500.

I simply wanted to state on the record at this time that it seems to us there is a constitutional question as to whether Section 3500 has fully carried out what the Supreme Court laid down in the Jencks case as being the requisities of due process. If there should be a conviction in this case, we might want to argue on appeal that this procedure laid down in the statute is not constitutional and does not com-
(tr. 679) pletely fulfill the requirement of due process.

We will be prepared to argue it to Your Honor here, if you wish, but at the moment all I wanted to say is to state for the record that we do challenge the constitutionality of that procedure under the Jencks case, and, therefore, take exception to the entire document not having been made available to us.

May I say again, of course, I am quite aware that Your Honor's action is in accordance with what the statute says.

THE COURT: That is the point I want to be certain your motion does concede, that the formula prescribed by the Act of September 2nd, 1957, has been followed here.

MR. TAYLOR: Yes, Your Honor. I don't have the exact language here, but—

THE COURT: The point you make is that the statute

itself does not—

MR. TAYLOR: Correct, yes, Your Honor.

THE COURT: — give the defendant all the right to which he is entitled, but you do not make the point that the statute has not been followed?

MR. TAYLOR: No, I do not. On that I just have one observation, but I am not going to insist on this at all. I just would like to inquire if it's feasible. I am informed that in the recent trial in Cleveland that same procedure that we have been following here was used, that is, that (tr. 680) the Government attorney submitted the records to the Judge with their suggestions on what should come out, that he reviewed those, and then gave the defense the results.

However, in Denver a slightly different procedure was followed; in Denver, the Government attorneys gave the defense at the outset the documents with the excisions already made, and simultaneously gave to the Judge the entire documents, and on this basis the defense was allowed to argue to the Judge whether certain excisions that they could see on their copies were proper or were interfering with the continuity, and so forth, before he had made up his mind.

Now I am not suggesting that Your Honor's mind would be closed, if we should come in and object to an excision and if this procedure is inconvenient for the Government. I am not going to insist on it here, but if it can be done that way, it seems to me, it is slightly preferable procedure and may more completely carry out what the statute had in mind.

If it can be done that way, it would be better, but we—and I am not going to insist on it.

THE COURT: Well, now, what actual difference is there in the two?

MR. TAYLOR: There is only this difference, that the defense sees the documents with the excisions before the Court has ruled whether or not the excisions are proper, and is thereby enabled to come in on the basis of the docu-
(tr. 681) ments with the excisions and say, We think this one is destroying the continuity; we think this one looks as if it would be relevant, and ask the Court to overrule those suggested excisions, and they are able to do that before the Court has already ruled that the excisions are proper.

THE COURT: Well, of course, you would have that same right here by asking a reconsideration after you had read the unexcised ones.

MR. TAYLOR: That is right. It simply means the difference between opportunity to argue about it before the Court reaches a decision or ask the Court to reconsider what he has already ruled on.

THE COURT: Well, just a difference in the practical application, I would think, it could be followed without any difficulty unless you gentlemen see some obstacle to it. If you do, why, we can confer on it again.

MR. KEENEY: How does this apply to the administrative markings?

MR. TAYLOR: Well, I think this would mean that

when you gave us the documents, you would have excised the administrative markings already. The copy that went to the Court would have the administrative markings on it, of course.

THE COURT: The only difference is the Court would not look at the excisions until the defense counsel had looked at the unexcised portions.

(tr. 682) MR. TAYLOR: Well, it is reverse. The Court would not look at the complete copies with the recommended excisions until the defense had seen a copy with the excisions already made and had had a chance to object to the excisions.

MR. WOERHEIDE: Your Honor, that would mean that we would have to make another photostatic set, which we would make up for Your Honor, besides the one that we would cut up for the defense counsel.

MR. TAYLOR: That is right.

MR. WOERHEIDE: And we don't have a spare photostatic set that we could use in that way, and I don't believe that we should be obligated to mark up the originals.

THE COURT: Well, I think I can reach the same result by not passing on the excisions until defense counsel had had a chance to read the documents, or that part of the document which is unexcised.

MR. TAYLOR: It may well be that we can work it out as a practical matter that way, and I don't want to put the Government to the burden of making another photostatic copy; that is not my intention.

THE COURT: I will work it that way, defer any ruling until you have had a chance to look at any such portions as are handed to you.

MR. TAYLOR: Thank you, Your Honor.

* * *

BABARA HARTLE, DIRECT EXAMINATION
(Continued)

(tr. 687) * * *

Q Mrs. Hartle, prior to the noon recess we were discussing the actions in which the Communist Party engaged while the Korean war was in progress, and as I recall your testimony you were referring to propaganda statements that were being made by the Communist Party during that period, and I ask you whether any statements were disseminated at that time by the Communist Party regarding the Commission of alleged atrocities by American soldiers who were fighting in Korea at that time?

MR. TAYLOR: Please Your Honor, may I ask what time, at what time?

MR. WOERHEIDE: During the Korean hostilities, Your Honor.

MR. TAYLOR: These lasted four years, Your Honor. You may make it more specific than that.

I object to the question as too vague, Your Honor; during the Korean War is too vague in point of time.

THE COURT: I think, if you can point it out, you can do it. If you cannot, I will allow the question.

(tr. 688) BY MR. WOERHEIDE:

Q Were such statements—I will rephrase the question, Your Honor.

In 1950 when the Korean War started and was in its first stages, did the Communist Party disseminate propaganda regarding the alleged commission of atrocities by American troops in Korea?

A Yes.

Q In 1951, Mrs. Hartle, when the Korean War still was in progress, did the Communist Party disseminate propaganda regarding the commission of atrocities by American troops?

A Yes.

Q In 1952—

MR. TAYLOR: I will ask, Your Honor, Mr. Woerheide be instructed to refrain from leading on every question; each one of these he has put words in the witness' mouth, and called for a yes or no answer, Your Honor, in 1952, did they thus and so.

THE COURT: Objection overruled.

BY MR. WOERHEIDE:

Q In 1952, Mrs. Hartle, while the Korean War still was in progress, did the Communist Party disseminate propaganda about the commission of alleged atrocities by American troops?

A Yes, it did.

(tr. 689) Q And in 1953, did the the Communist Party disseminate propaganda about the commission of alleged atrocities by American troops?

MR. TAYLOR: Your Honor, I will renew the objection as calling for the conclusion of the witness. He can

ask her what she observed, what she saw, but not for the conclusion on that.

MR. WOERHEIDE: I intend to go into the nature of this propaganda, Your Honor. First, I wish to lay the foundation.

MR. TAYLOR: I would ask that he get the facts and not the conclusion.

THE COURT: Objection overruled.

BY MR. WOERHEIDE:

Q Will you tell us what that propaganda was, Mrs. Hartle, please?

A The propaganda was by the Communist Party that the American soldiers in Korea were rivaling the atrocities committed by the Hitler soldiery in Europe. The statements were made in the Communist Party that soldiers who participated in the war in Korea would be brutalized as the soldiers of Fascism had been in Hitler Germany.

Q Did they say what kind of atrocities American troops were committing in Korea?

MR. TAYLOR: Your Honor, I will again object. The (tr. 690) question does not say—

THE WITNESS: No.

MR. TAYLOR: The question does not call for who said or give any specific specification as to time, place, or identity of the person making this statement.

THE COURT: What was the occasion of the statement you are inquiring about, Mr. Woerheide?

MR. WOERHEIDE: Well, I will withdraw that ques-

tion, Your Honor, and ask another question.

BY MR. WOERHEIDE:

Q This is a preliminary question, Your Honor.

Do you recall propaganda put out by the Communist Party during the Korean War period about the waging of germ warfare by American soldiers in Korea?

A Yes, I do.

Q What was that propaganda?

A The propaganda was that the American armed forces are using bacteriological warfare in Korea.

Q Do you recall any propaganda regarding bombing raids against civilian populations?

A Yes.

Q What was that propaganda?

A It was the propaganda that the Air Force was not trying to hit the military targets, but was trying to deci- (tr. 691) mate the population of North Korea.

Q What means, if you know, Mrs. Hartle, were used by the Communist Party during the war to disseminate this type of propaganda?

A A number of means were used. Articles appeared in the Communist Party press, The People's World, the Daily Worker, Political Affairs, and other periodicals, in magazines, and were circulated, leaflets were issued by the Communist Party containing such points, and those points, speeches were made at meetings held by the Communist Party, where those things were said, those things were said in conferences by Communists and in trade union and mass organizations by Communists.

Q In this connection did the Communist Party organize any letter-writing campaigns?

A Yes. In that connection letter-writing campaigns were organized to the President of the United States, the State Department, and to Senators and Representatives of the United States Congress among others.

Q Were members of the Communist Party told what to say in these letters?

A Yes. On many occasions the postcards were printed by the Party Office or Section leadership in, on a mimeographed, so that only a signature was necessary in order to send it in. The political line of the Party to oppose the (tr. 692) Korean War contained the points that should be hammered home and brought home in opposing the war.

Q Mrs. Hartle, do I understand that you were Youth Director of the Party in the period of 1949, 1950?

A Yes.

Q What were your responsibilities as Youth Director?

A My responsibilities were to be in charge of the youth work of the Communist Party of the Northwest District. The specific organizational work that I was responsible for in order to carry out that program was to see that the leftwing youth organization, the Labor Youth League, is organized, to see that young people are brought into it, that it has a functioning staff of officers and that it is a functioning organization carrying on its program, to see that young people, young Communists, take part in the life of campus organizations on the University of Washington Campus, in particular, to see that young Communists are active in the Youth Council of the N.A.A.C.P., which is the National Association for the Advancement of Colored People, to see that youth committees are set up in the unions

and especially in the concentration unions, concentration industry unions, so that those unions would take up the youth program that the Communist Party was interested in. Those were some of the responsibilities.

* * *

(tr. 696) * * *

Q Now, Mrs. Hartle, directing your attention to the period about 1936, when, as I recall your testimony, you were Agitational Propaganda Director of the Section of (tr. 697) the Communist Party which had its headquarters in Spokane, Washington, do you recall at that time—I would like to strike that.

Who was the head of the Northwest District of the Party at that time?

A Morris Raport.

Q Do you recall an occasion when he came to Spokane and discussed with you Underground operations?

A Yes.

Q When was that?

A In 1936.

Q What happened at that time?

A At that time Morris Raport said that it was necessary for the members of the Section Committee of the Communist Party in Spokane to arrange with someone who was not known as a Communist to be able to stay at their home over night, or a few days, in the event it became necessary for the Section Committee members to leave their own homes in order to avoid arrest.

He said that if such places were prepared and directed us to prepare them, in the event some person were arrested

the word could be quickly passed, and if we had a place to go where we could stay without being observed, it could defeat a mass raid on the Communist Party by law-enforcement officers.

(tr. 698) Q Do you recall any action which you took at that time?

A Yes.

Q What was that?

A I spoke with a woman friend of mine and told her that I wanted a place where I could stay over night, or a few days, without making preparations ahead of time, that I could come in whenever I needed to and stay, and that my presence shouldn't be revealed and that I would stay as long as I needed to, and I did make such arrangements.

Q Did you ever have occasion to use these premises?

A Yes.

Q How did that happen?

A I was informed by the Section official, the Chairman of the Section, one day, that when I came from work that I was not to go home, but was to go to my special place, as it was called, and stay there until I received word to leave. I did stay there one night, and that was all.

MR. TAYLOR: May we be told when, Mr. Woerheide?

THE WITNESS: In 1936. I don't remember the month. It was 1936.

BY MR. WOERHEIDE:

Q Now directing your attention, Mrs. Hartle, to the period between 1939 to 1941, when the so-called Hitler-

(tr. 699) Stalin Pact was in effect, do you recall any discussion within the Communist Party at that time regarding possible Underground operations, techniques, methods?

A Yes.

Q Where did these discussions take place?

A They took place in meetings of the Communist Party in Spokane, Washington.

Q Who participated in these discussions?

A The leadership of the Spokane Section, and the Northwest District Chairman of the Communist Party from Seattle.

Q What was the substance of these discussions?

A The substance of these discussions was that a check-up had been conducted and a report was given that a number of small mimeograph machines had been placed in various homes along with paper and stencils and mimeograph ink, supplies needed in order to have the materials available to put out leaflets for the Communist Party in the event that the Daily Worker was shut down, or in the event that it became suspicious matter to, for anyone to go in and order a large amount of paper to print leaflets. Other, other matters that were discussed were that some precaution should be taken so that the authorities wouldn't know everything that the Communist Party was doing.

Some of these precautions were to be careful about (tr. 700) meeting places. The District Organizer informed us that he would not come into town and proceed as usual to a hotel, but would stay in someone's home and in someone's home that wasn't well known as a Communist, as he had done formerly.

Other precautions that were discussed were that in typ-

ing material, to put three or four pieces of blank paper on top of a carbon and then write through that on a sheet of paper. The reason for this being that it is difficult to trace what typewriter typing comes from when it is in a blurred carbon copy.

Another precaution discussed was that when burning material that one is through with and doesn't want to leave around, that it is not only necessary to burn the material but to smash the ashes, because ashes can be read by experts as to what it says on the paper. A number of such matters were discussed.

Q Were you told what to do about telephones?

A Yes, we were told that telephones can be tapped, and that a machine for listening to what is going on in the room can be put in a telephone and that it is best not to hold meetings in rooms with telephones, but if you do have to hold a meeting in a room with a telephone, the thing to do is either to put a heavy coat or a blanket over it, smother it, or to turn the radio on very low, which would mix up the sounds to the point where it would be difficult to take a re-
(tr. 701) cording of what was being said.

Q Were you told what to do about parking automobiles?

A Yes. We were told that automobiles should not all be parked in a row in front of a meeting place, a home, or a hall, that it is very easy for someone to take down all the license numbers and find out who was at the meeting, that cars should be parked aways away from a meeting place and members should walk a block or two or three to the meeting place.

Q Were you told what to do about keeping personal records?

A We were told at that time in that period to have the

minimum of records and to be careful with our records, not to carry names and addresses around.

Q Were you told about taking notes at meetings?

A Yes. We were told that notes should not be taken, that they could be lost, or that they could be found on a person.

Q Were you told anything about letting lights burn late at night?

A Yes. We were told that it was the knowledge of the Communist movement that Communists were sometimes detected in a neighborhood by the fact that they always seemed to have their lights on the latest of anyone else in the neighborhood, that people would wonder what was (tr. 702) keeping them up so late, and that the long meetings and discussions would have to be cut down, that meetings would have to start earlier and be more prompt in their execution, and that the members present at the meeting should depart promptly. However, we were instructed not to depart in a group, but to depart in ones and twos so that it didn't look like an exodus from a meeting.

MR. WOERHEIDE: Your Honor, I got into my proof on this Underground question a little bit prematurely, and I would like to leave off at this moment, at this particular point, which was back in the early forties and take it up a little bit later. I will not repeat the same testimony, Your Honor.

* * *

(tr. 704) * * *

Q Mrs. Hartle, I show you Government's Exhibit for identification No. 36, which is the June, 1950, issue of Political Affairs, and I ask you if you can identify this document?

A Yes.

Q Was that an official publication of the Communist Party?

A Yes. This is the official theoretical organ of the Communist Party of the U.S.A.

MR. WOERHEIDE: Your Honor, I ask that this issue of the magazine be received in evidence.

THE COURT: Let it be admitted.

(The Clerk so marked the pamphlet entitled Political Affairs, June, 1950, as Government's Exhibit No. 36 in evidence.)

MR. TAYLOR: Usual objection, Your Honor.

BY MR. WOERHEIDE:

Q Mrs. Hartle, I direct your attention to an article by William Z. Foster, starting on page 14 of this exhibit, entitled People's Front and People's Democracy, and I will read you the following quotation from page 20 of this article:

> But regardless of tactical variations that may be necessary as the class struggle proceeds, the road to socialism remains the same through the defeat of the (tr. 705) capitalist class and the establishment of the dictatorship of the Proletariat.

(The exhibit was handed to the witness.)

Mrs. Hartle, what was your official position at the time this publication came out?

A I was the Educational Director of the Northwest District of the Communist Party.

* * *

(tr. 707) * * *

Q Mrs. Hartle, I think the pending question is. Will you explain to the jury what this statement conveyed to members of the Communist Party who read it in Political Affairs.

A This statement meant that regardless of whether the Communist Party is supporting a third party or the Progressive Party or a former Labor Party, or a United Front Coalition, regardless of the politics that the Party takes part in to bring forward the day-to-day program of the Party, like rents and housing and wages and Negro rights and women's rights, regardless of the Party support of that type of government, which is a tactic, that the road to socialism remains the same, that this is, that these types of governments—supposing the Progressive Party would get into the government and be a Progressive Party president and vice president and cabinet and a majority in the Congress and in office throughout the country, that the party (tr. 708) that is then in power, that, would not change the road to socialism. This is a tactic on the way to socialism.

To organize and unite the working class and its allies and tell them how to fight and keep up the democracy, open up all the democratic avenues for this program, but the road remains the same—through the defeat of the capitalist class, and the establishment of the dictatorship of the Proletariat.

Through the defeat of the capitalist class means through the forcible overthrow of the capitalist class, through the smashing of the Bourgeois state machine, through the—

which means through wrecking or disbanding or suppressing any organ of the Government which could stop the revolution, and the new revolutionary government from coming in, and establishment of the dictatorship of the Proletariat means after the Bourgeois state machine, the police, the courts, the prisons, the army of the old class have been liquidated and new ones set up, the dictatorship of the Proletariat means becoming the Government and exercising the power of state themselves, against the old class or suppressing the old class to prevent it from coming back into power and making a counter-revolution, and, in brief, the article means to Communists that, let us not confuse a people's front or a united front, or a democratic front, or (tr. 709) an anti-imperialist front government with a dictatorship of the Proletariat because they are not the same thing. They are the, one will help to get to the other, but they are not the same thing.

* * *

(tr. 712) * * *

Q Mrs. Hartle, did there come a time when the National Headquarters of the Party issued certain instructions to the lower echelons of the Party regarding the subject of Titoism?

A Yes.

THE CLERK: No. 37.

(The Clerk so marked the pamphlet entitled Struggle Against The Tito Fascist Agents of Imperialism as Government's Exhibit No. 37 for identification.)

BY MR. WOERHEIDE:

Q Will you tell the jurors, Mrs. Hartle, what the term

Titoism means?

A Titoism means following the lead of Tito, of Yugoslavia, and in the Communist Party it means a deviation from Marxism-Leninism, an abandoning of Marxism-Leninism.

Q Mrs. Hartle, I show you Government's Exhibit No. (tr. 713) 37 for identification, and I ask you if you can identify it?

A Yes. This is The Struggle Against the Tito Fascist Agents of Imperialism, and it's a study outline that was sent to the Northwest District by the National Education Department for use in classes and educational work and propaganda work of the Party.

Q Is there a program of action set forth in that outline, Mrs. Hartle?

A Yes, there are. There is a program of action in here.

MR. TAYLOR: Mr. Woerheide, so there will be no confusion in my mind, could you find out when this was sent to the Northwest District?

MR. WOERHEIDE: When was it sent to the Northwest District, Mrs. Hartle?

THE WITNESS: In 1949.

BY MR. WOERHEIDE:

Q Will you tell us what the program of action outlined by the Party was with respect to Titoism?

A The program of action was that the Marxist-Leninist Party, Communist Party itself, must have a full grasp of the significance of what Titoism was, that it was an alien ideology, that it was Bourgeois nationalism, that it was a

theory that played into the hands of American imperialism and the State Department particularly, and that it was (tr. 714) aimed specifically against the Soviet Union, and after it, that was part of the program, to make certain that the Communist Party itself would understand what that theory was, what Titoism was.

It was said further that Titoism is the Trotskyism of this period in history.

The other steps in the program were that this understanding of what Titoism is must be brought to the labor and Progressive and mass people's movement through the Party members in there, and to explain and convince to the workers and people that Titoism is the maneuver on the part, in the first place, of the United States State Department to try to foment a war against the Soviet Union, that the State Department was hatching up a plot to attempt to secure Yugoslavia as a base of operaions to launch such a war against the Soviet Union, an imperialist war against them.

It was—Part of a program of action was, to issue leaflets and explain this Titoism in the course of doing other work, so that the people will recognize Titoism as being very dangerous to the working class, really aimed at them, aimed at the peace of our country and is a very bad thing in general.

Q Mrs. Hartle, how were these statements with respect to Titoism to be brought to the attention of the members of trade unions and to the members of these mass organizations?

(tr. 715) A Well, they were to be brought to the attention of trade unions in a number of ways. One of them is to have Communist Party members in the trade unions get up and talk about it, connect it with some feasible issue.

where it seemed to fit in quite well.

Another way was to issue the Communist Party press and leaflets and distribute them to trade unions at their plants and in their working class neighborhoods, and to hold mass meetings in the name of the Communist Party where they could come and hear about it, and to speak of Titoism in broader mass meetings and conferences organized by other organizations, not in the name of the Communist Party, such as, the Washington Pension Union, and explain it there in a number of such avenues.

MR. WOERHEIDE: Your Honor, I ask that Government's Exhibit No. 37 be received in evidence.

MR. TAYLOR: Same objection.

THE COURT: Let it be admitted.

(The Clerk so marked the pamphlet entitled Struggle Against The Tito Fascists Agents of Imperialism as Government's Exhibit No. 37 in evidence.)

MR. WOERHEIDE: Your Honor, excuse me.

BY MR. WOERHEIDE:

Q Mrs. Hartle, I show you Government's Exhibit No. (tr. 716) 29 in evidence, and I ask you if you can recognize this document?

A Yes. This is an outline concerning concentration work of the Communist Party which was sent by the National Education Department to the Northwest District of the Communist Party for use in Schools, classes, club discussions, and in other ways.

Q When was this exhibit distributed throughout the Communist Party, Mrs. Hartle, to your knowledge?

A In 1949.

Q Did you receive copies of it at that time?

A Yes.

Q Did you receive instructions concerning the use of this document?

A The instructions were general for the outlines, specific instructions are contained in the outline itself.

Q Is there a program of action set forth in that outline, Mrs. Hartle?

A Yes.

Q What is the program of action with respect to industrial concentration?

A The program of action is that that is outlined here, is in quite detail of how to organize the concentration policy of the Party, to build shop and industry clubs, to utilize the work of neighborhood clubs, to support the work of the concentration industry policy, to select the shops for con- (tr. 717) centration and have certain clubs concentrate on certain shops, to see that, to train members of the Communist Party for concentration work, so that they will be familiar with the industry and the union and will be able to carry on more effective work when they go into that industry; matters of that kind.

* * *

BY MR. WOERHEIDE:

Q Mrs. Hartle, just before the recess we were going into the matter of concentration work. Did there come a time when you received a concentration assignment from

the Party, Mrs. Hartle?

A Yes.

Q When was that?

A In around the middle of 1947.

Q Thereafter for how long a period did you engage in concentration work?

A I engaged in it for a period of three years, three years.

Q That would take you through—

(tr. 718) A About the middle—

Q 1950?

A Middle of 1950, yes.

Q Mrs. Hartle, what was your concentration assignment?

A It was to recruit workers out of the aircraft industry specifically, the Boeing Airplane Company Plant in Seattle, Washington.

Q Was the Boeing Company, to your knowledge, a plant which did classified work for the United States Government?

A I don't know that I can testify to my knowledge. It was common knowledge.—

MR. TAYLOR: I believe the answer has been completed. If the witness says she doesn't know, Your Honor —now she's volunteering additional information.

THE COURT: Is that the purport of your answer, that you do not know?

THE WITNESS: No, it is that I don't know of my own knowledge because I did not work there, or I was not part of the Boeing Company.

MR. TAYLOR: Renew the objection for anything further, Your Honor.

MR. WOERHEIDE: Was there any discussion within the Party circles with which you were associated regard-
(tr. 719) ing the type of work that was done at the Boeing Airplane Plant?

THE WITNESS: Yes.

BY MR. WOERHEIDE:

Q On what level were these discussions held, Mrs. Hartle?

A They were held on the District and Regional level, and also the Club level in the Aircraft Concentration Region.

Q Were there discussions with the top leadership of the Party in the Northwest District?

A Yes.

Q With Mr. Huff?

A Yes.

Q Mr. vanLydegraf?

A Yes, v-a-n, L-y-d-e-g-r-a-f.

Q When were these discussions held, Mrs. Hartle?

A At the—were held during the period of 1947 to 1950.

Q With respect to the type of production which the Boeing Plant was engaged in, what was said in the course of these discussions?

A It was said that they were manufacturing bombers and war material.

Q What was the objective of the concentration program

with respect to the Boeing Plant, Mrs. Hartle?

A The objective of the concentration work was to recruit (tr. 720) Boeing workers into the Communist Party and to influence the Boeing workers and their union, the Aeronautical Mechanics Union of the Machinists International, in a direction that the Communist Party wanted that union to take.

Q Was activity engaged in by the Communist Party to attain these objectives of the Communist Party with respect to the Boeing Plant, Mrs. Hartle?

A Yes.

Q What was that activity?

A The activity was to contact Boeing workers in order to get acquainted with them, and to try to find among them persons who might be sympathetic to the Party and who might be material for recruiting into the Party. The activity was for groups of two, two Party members in the Region to find the home addresses of a number of Boeing workers out of the City Directory and to visit them one by one, taking certain literature along, sounding them out, trying to find out which ones should be followed up, might be amenable to being recruited into the Communist Party.

Other activity was to mail to large numbers of Boeing workers a Party leaflet, pamphlet, and periodicals and newspapers. Other activities was to distribute the special editions of the Northwest edition of the People's World to the workers as they came out of the Boeing Plant, or to leave them on their cars, so that when they got in their cars to (tr. 721) go home, they would find this material there.

Other activity was to hold street meetings in some intersections in the areas where many Boeing workers lived, such as, the housing projects that were in the more or less immediate area of the Boeing Airplane Company, and a

number of such actions were carried out.

Q Mrs. Hartle, were any special precautions taken with respect to the size of the club or branch units which were formed from the recruits among the Boeing workers?

A Yes.

Q What were those special precautions?

A The Boeing workers themselves who were still working in the plant, and some of those who had been fired out of the plant, and were still attempting to get back in, were organized in a, simply under ground fashion. They were organized in groups of one, or two, and sometimes three, and they were contacted, each group was contacted by an official of the Aircraft Section separately so that the Boeing workers in there would not know each other in the event that any one of them was an F.B.I. agent and could identify the rest of them.

Q Mrs. Hartle, besides the aircraft industry in that region, were there any other industries which were a target for concentration work by the Communist Party, to your knowledge?

(tr. 722) A In the State of Washington the Communist Party concentration industries were lumber, maritime, and aircraft. In some of the Sections of the Communist Party in the State of Washington there were additional concentrations. In Spokane, Washington, where there is no maritime industry and no aircraft, besides the state-wide lumber concentration, the concentration was railroad, inasmuch as that is a railroad center.

In the City of Tacoma, where there is also a large railroad population, one of the concentrations was also railroad.

Q Mrs. Hartle, did the Communist Party in its concen-

tration work, work up separate plans for the separate industries?

A Yes.

Q Who worked up those plans, Mrs. Hartle?

A The plans were, the plans for concentration work in each concentration industry, were worked up by the District leadership of the Communist Party, the District officers, and were also taken up by the District Board and District Committee of the Communist Party.

Q Were these plans worked up pursuant to instructions received from the National Headquarters of the Party?

A Yes.

Q Did the Party from time to time conduct an inquiry to ascertain the success of its concentration work?

(tr. 723) A Yes. The periodic check-ups were made to see that the goals in recruiting and literature and other matters were proceeding as was wanted.

* * *

(tr. 724) * * *

Q Mrs. Hartle, I have asked you previously about plans and discussions regarding Underground operations in the period around the year 1936 and again around the year 1939 to '41. I now ask you if there were similar discussions about the period 1947?

A Yes.

Q How did this come about?

A In 1947 we had a District Committee meeting. One of the subjects of that meeting was a factional dispute be-
(tr. 725) tween the District Organizer and another officer of the Party.

One of the subjects of that meeting was a report that Henry Huff gave upon returning from a meeting of the

National Committee of the Communist Party in New York. In this report he reported that William Z. Foster had spoken as the main speaker in the National Committee meeting, and he had reported that the Underground during World War II in Europe had been successful for several reasons, the Underground of the Communist Party, that the reasons were that they had organized themselves in groups of three, no larger than a group of three, and that the work of the Communist Party was divided in this group of three, between a political leader, an organizational leader, and a mass trade union leader.

And that the second reason why the Underground was successful was that the Party had learned in their experience there that the key thing about being successful underground was to be sure that you were not followed, and that in the event you thought you were being followed, by someone who might be trying to investigate you or apprehend you, that you would immediately cease activity and not make another contact with another Communist, and that by pursuing this policy the Underground had been very successful and the minimum number of persons had been found out to be in the Underground.

Q Now, Mrs. Hartle, in the following period were there (tr. 726) any changes made within the structure of the Communist Party as regards the size of groups within the Party?

A Yes. In the 1948 period there was again a reduction in the size of the Branches from possible twenty-five or thirty members to about fifteen members, and there was a breaking up of the Branches into Groups, smaller groups yet, of two, three, and not more than five, with the Group leader of each Group who supposedly, at least, was the only one who knew that they were in the Group.

Q What was the purpose of these changes in the size of the Groups, Mrs. Hartle?

A The purpose of the change was that if an F.B.I. agent or any other person in the government was interested in finding out who the Communists were, that one agent would find out the minimum number of Communists with the maximum amount of effort on his part.

Q Do you recall whether corresponding changes were made on the National level of the Party?

A Corresponding changes were made in that the size of the National Committee was cut approximately in half, in the National level.

Q Now, do you recall an occasion when a woman named Dorothy came to Seattle?

A Yes.

Q When was that?.

(tr. 727) A That was in the winter of 1949 and '50.

Q Did you meet this woman?

A Yes.

Q Who introduced you to her?

A Henry Huff.

Q What did he say at that time?

A He said that the woman he was introducing me to was not named Dorothy, but that I should call her that, that she had another name. He said to me, not while he was introducing me, but on another occasion, that she may be Ann Silver. He said that she had been sent from the National Headquarters of the Communist Party for the purpose of organizing Underground work, and that I should work with her and lend her all possible assistance so that she could accomplish the program that she had come out there to accomplish.

Q Did you thereafter work with her, Mrs. Hartle?
A Yes, I did.

Q What happened while you were working with her?
A While I was working with her, we set up a part of an Underground apparatus. We set up a person who could travel as the representative of the District as a courier from the District Headquarters, and to get in contact with the National representatives of the Party wherever he might be sent. A courier between the District and the (tr. 728) National Communist Party.

We set up a place where a person could come who was coming from the National Headquarters, a point of contact where he could walk up to a door and knock and give a password and from there on make contact with the local officials of the Party so that he would not have to come to an office or to the home of a Communist Party leader. And we set up a place for such a person to stay for a week or two, or even for several months, if necessary, some home without small children in it, where he could have a room by himself, and where he could stay, could work and write or do whatever he needed to do and remain unknown in the neighborhood and to anyone else.

And we set up a person to operate a lithograph machine that could print a paper, to take the place of the Daily Worker, if it were suppressed, and we had to set up a person that could do photography and we did find a photographer who was willing to take that assignment.

We were supposed to set up some more, but that's about as far as we got, as I recall.

Q Was anything done about mail drops and bundle drops?
A Well, we were supposed to set up a number of mail

and bundle drops; but she had to leave the area and I was supposed to do it later, and I also left, so that's as far as (tr. 729) my knowledge goes on the mail and bundle drops that we were supposed to set them up, but I don't know that they ever were.

Q When Dorothy left, did she leave any instructions for you?

A Yes. Her instructions were that I should continue every, continue setting up these mail and bundle drops, and some other things that she wanted done along these lines.

Q Do you recall any discussions among Huff, the District Organizer, Dorothy, and yourself, regarding the types of person you needed for work in this Underground activity?

A Yes. The discussion was that Dorothy said that for these Underground persons we needed persons who were highly reliable, tested and loyal to the Party, but we needed persons who were not known at all as Communists, who were not even on any subscription lists of the Daily Worker or People's World or even of such magazines as Freedom that Paul Robeson put out, and other things that might lead to somebody suspecting they were in any way connected with the Communist Party.

And Henry Huff said that in our District he didn't know how that could work, but the persons who were loyal and tested out there were persons who had participated in the Communist Party work and activities and in the trade unions and mass organizations, and that he thought it would be very difficult to find tested and reliable people (tr. 730) who had been that far, so far in the background.

However he said that inasmuch as that was the requirement from the National Headquarters, that he, we would

have to do the best we could and find the very best we could to meet those requirements.

Q Mrs. Hartle, do you recall during the period 1949 and 1950, early 1950, any discussion on the staff and Board level regarding money in connection with Underground activity?

A Yes.

Q Where did these discussions take place?

A These discussions took place in the staff and in the District Board meetings, the staff meetings being meetings of the full-time officers in the office who usually meet in the daytime before Board meetings, and the discussions were that it was necessary to build a larger reserve of funds for Underground work. And the discussions included that we had received instructions persistently from the National Headquarters that such reserve of funds must be set up. the funds to be set up would be necessarily large because it would entail the expenditure of money to keep an Underground apparatus going, and the discussion was that the very immediate need for the District was a twenty or thirty thousand dollar fund to be raised and set aside.

Q In these discussions, Mrs. Hartle, was anything said (tr. 731) regarding the purpose of these Underground operations?

A Yes.

Q What was said, please?

A It was said that the Underground operations were for the purpose of protecting the Party against the surveillance and arrest by government authorities and that the sending of people underground was for the purpose of replacing Party leaders who might be arrested.

Q Was anything said about this time as regards send-

ing any officials of your District underground?

A Yes, there was.

Q When was this subject first broached?

A Around the first and middle part, around the first part of 1949, was first broached.

Q Where did these discussions take place, on what level?

A They took place in the District staff and District Board.

Q What was said in the course of these discussions, Mrs. Hartle?

A In the course of those discussions in early 1949 it was discussed that it might become necessary for the Chairman of the District and the Secretary of the District to go underground. It was further discussed around that period that my assignment should be changed from that of Aircraft (tr. 732) Concentration Chairman to that of District Educational Director so that there would be more personnel in the District Office in the event that the top leaders of the Party had to go underground.

Q Mrs. Hartle, did there come a time when you, yourself, received an actual Underground assignment?

A Yes.

Q When was that?

A In July of 1950.

* * *

(tr. 793) * * *

Q Now, Mrs. Hartle, directing your attention to the period from the reconstitution of the Party in 1945 until the time when you finally left the Communist Party, I ask you the following questions. Please answer this first question yes or no.

Were you taught concerning the State as an instrument of oppression?

A Yes.

Q Where were you so taught?

A I was so taught in the National Training School in 1946.

Q My next question is again to be answered yes or no, Mrs. Hartle.

MR. TAYLOR: Your Honor, I suggest that is an improper—the witness should answer as she feels to be accurate and truthful and not in the form prescribed by the (tr. 794) Prosecuting Attorney.

MR. WOERHEIDE: I am attempting to lay a foundation, your Honor.

THE COURT: Objection overruled.

BY MR. WOERHEIDE:

Q Did you teach and supervise teaching by others, concerning the State as an instrument of oppression?

A Yes.

Q Where and when?

A In schools and classes in Seattle between 1945 and 1950.

Q Was the teaching given and supervised by you in this respect, the same as the teaching which you received?

A Yes.

Q What was the teaching, this teaching in the Communist Party regarding the State as an instrument of oppression?

A I was taught that the State is an instrument of op-

pression of one class over another class. In capitalist society which we have today the State is the instrument of oppression of the capitalist class over the working class.

Q Mrs. Hartle, during this period were you taught concerning the class struggle?

A Yes.

Q Did you teach and did you supervise teaching con-
(tr. 795) cerning the class struggle?

A Yes.

Q Was the teaching given and supervised by you in this respect the same as the teaching you received?

A Yes.

Q What was this teaching in the Communist Party regarding the class struggle?

A The teaching regarding the class struggle was that there are two main classes in society which are inevitable and there is irreconcilable class struggle which ranges at a very high pitch at times, is sometimes modified at other times, but that this class struggle, this clash between classes goes on constantly.

Q Mrs. Hartle, at this time were you taught concerning the role to be played by the Communist Party in the class struggle?

A Yes.

Q Did you teach and did you supervise teaching by others concerning the role to be played by the Communist Party in the class struggle?

A Yes.

Q Was the teaching given and received—I am sorry—I will start the question over.

Was the teaching given and supervised by you in this

respect the same as the teaching you received?

(tr. 796) A Yes.

Q What was the teaching in the Communist Party as to the role to be played by the Communist Party in the class struggle?

A The teaching in the Communist Party regarding the role of the Communist Party in the class struggle was that the Communist Party leads the class struggle of the working class, that it leads the working class in the class struggle to prepare for taking power, that it leads the working class in seizing power, leads the working class in smashing the old Bourgeois state machine, and it leads the working class in establishing the dictatorship of the Proletariat, which is the new state machine, and that it is the instrument of the dictatorship of the Proletariat for maintaining it.

Q Mrs. Hartle, during the period which I have mentioned were you taught concerning the ultimate goal of the Communist Party in the class struggle?

A Yes.

Q Did you teach and did you supervise teaching by others concerning the ultimate goal of the Communist Party in leading the class struggle?

A Yes.

Q Was the teaching given and supervised by you in this respect the same as the teaching you received?

A Yes.

(tr. 797) Q What was the teaching in the Communist Party regarding the ultimate goal of the Communist Party in the class struggle?

A The teaching regarding the ultimate goal in the class

struggle was that that ultimate goal is the dictatorship of the Proletariat. The teaching further was that it was for the purpose of organizing a Socialist society, but the goal of the class struggle as taught by the Communist Party is the dictatorship of the Proletariat.

Q Mrs. Hartle, were you taught concerning the means whereby this ultimate goal of the Communist Party was to be attained?

A Yes.

Q Did you teach, and did you supervise teaching by others concerning the means whereby this ultimate goal of the Communist Party was to be obtained?

A Yes.

Q Was the teaching given and supervised by you in this respect the same as the teaching you received?

A Yes.

Q What was the teaching in the Communist Party concerning the means whereby the ultimate goal of the Communist Party was to be attained?

A The teaching regarding the means by which the ultimate goal might be attained was that those means would (tr. 798) be forcible. The teaching was that any teaching, any theory of a peaceful road to socialism, or a growing over from capitalism to socialism was a betrayal of the working class and that the Communist Party leading the working class would have to arm if in the first place with the theory that the workers must know and must be prepared to know that they can only take power forcibly.

Q Mrs. Hartle, in this respect, I will read to you a passage in Government Exhibit No. 17, a letter to American workers; the passage appears on page 16.

"For the class struggle in revolutionary times has always inevitably and in every country taken on the form of civil war, and civil war is unthinkable without the worst kind of destruction, without terror, and limitations of formal democracy in the interest of war."

Mrs. Hartle, I ask you if this passage was taught to you in the National Training School that you attended in 1946?

A Yes, it was.

Q Is this passage set forth in quotation marks in the notes that you made at that time?

A Yes, it is.

Q Mrs. Hartle, during the period in question were you taught concerning action which members of the Party should take in preparation for attaining the ultimate goal of the (tr. 799) Communist Party?

A Yes.

Q Did you teach and did you supervise teaching by others concerning action which members of the Communist Party should take in preparation for attaining the ultimate goal of the Communist Party?

A Yes.

Q Was the teaching given and supervised by you in this respect the same as the teaching you received?

A Yes.

Q What was the teaching in the Communist Party concerning action which members of the Communist Party should take in preparation for attaining the ultimate goal of the Party?

A The action that Communist Party members should take in preparing for the ultimate goal that I was taught

and that I taught, were to build the Communist Party as the vanguard party of the working class, a theoretically equipped party, equipped with the theory of Marxism-Leninism, a highly organized party that could act as a unit, as a monolithic whole, with democratic centralism, the principle guiding it, that it will be, act as a unit, and features of, other features of a vanguard party, and that the Communist Party should be the connection between the vanguard and the working class millions in this preparation by working with and winning the confidence of the working (tr. 800) class and allies of the working class, such as, the Negro people, the poor farmers, other national groups, and in this way, in the course of struggle, constant struggle taking the forms of strikes and demonstrations and picket lines and marches and various kinds of activities to train the working class and the people for revolutionary battle.

Q Mrs. Hartle, during the period in question were you taught concerning when the final revolutionary struggle led by the Communist Party to seize control of the state by force and violence would occur?

A Yes.

Q Did you teach and did you supervise teaching by others concerning when the final revolutionary struggle led by the Communist Party to seize control of the state by force and violence would occur?

A Yes.

Q Was the teaching given and supervised by you in this respect the same as the teaching you received?

A Yes.

Q What was the teaching in the Communist Party concerning when the final revolutionary struggle led by the Communist Party to seize control of the state by force and violence would occur?

A I was taught that that moment in history would occur at a time when both the subjective and objective conditions are ripe at the same time, that the objective conditions would (tr. 801) be a revolutionary situation in which the old working class is no longer able to rule in the old way, and when the economy of the country is no longer able to meet the needs of the people, and that the subjective condition was that the working class follows the Communist Party.

* * *

BARBARA HARTLE, CROSS-EXAMINATION

(tr. 841) * * *

Q Mrs. Hartle, at the noon recess I had been asking you (tr. 842) about the various actions undertaken by you in the Communist Party during these years that you were a member. Did you have an opportunity over the luncheon recess to think of any new or additional actions that you haven't mentioned yet?

A During the years 1945 to 1947?

Q Any time from 1940 to 1947—or—yes.

A Yes.

Q Good. Will you tell us what those are?

A In the 1947 period I don't recall now quite what I had testified to, as to what those actions were. I may repeat some of it.

In the 1945 to '47 period were held a large number of mass meetings of the Communist Party.

Q Hmn.

A There was a great deal of organizational work went into guaranteeing that these would be very large, impressive meetings; during that time there were organized large

distributions of Communist Party literature, and Communist Party Press; during that period 1945 to '47 there was organized a demonstration against the State House Un-American Activities Committee, the State House Un-American Activities Committee.

Q Canwell Committee?

A The Canwell Committee was the committee of the Legislature that was to investigate subversive activities in that area, and a demonstration was organized through the (tr. 843) Washington Pension Union and labor and progressive organizations for the purpose of having such a large picket line that it would stop the operations of the committee.

Now this was held in front of the Armory Building in Seattle, Washington, and during that period there were many conferences on issues that were of interest to the workers at that period, on the question of reconverting the wartime industries to peacetime industries; there were meetings there that discussed the conversion of the Boeing Aircraft Company from making aircraft and bombers to the possibility that they could manufacture automobiles or washing machines, and this referred also to what could be done in the shipyards in place of to construct ships for peaceful use, instead of the war ship, repair and construction that had taken place there.

Q Merchant ships?

A Yes, and there were a number of activities of a similar type that I'd mentioned before during that time.

Q Now coming to the period 1948 to 1950, or late 1947 to 1950, and by 1950 I mean July, when you left Seattle, I think I had asked you just when the noon recess came, whether you served during that period as Organizer of

South King County; is that correct?

A Yes, during part of that period I was Organizer of the Aircraft Concentration Region in South King County, and from 1949 to about the middle of 1949, to the middle (tr. 844) of June, 1950, I was the Educational Director of the Party and had some other assignments, too.

Q Those two positions were held not at the same time but one after the other?

A One after the other.

Q And in addition to those two positions you were still on the District Board and the District Committee?

A Yes.

Q And any others that you recall before July, 1950, or is that all?

A I was at that time a member and Chairman of the Northwest District Negro Commission, and I was responsible to the State Board for the direction of the literature work in the Party Book Store.

Q Now would you tell the jury—

A And the Youth Director.

Q Youth Director?

A Yes.

Q Would you tell the jury during this period and in those capacities for the Communist Party what activities and actions on behalf of the Party you engaged in? To save time, if you want to say if there are any new activities other than those that you mentioned, that would answer my question.

A There were similar activities to a number of those I have mentioned, such as public meetings, circulation of liter-
(tr. 845) ature, circulation of press, educational activi-

ties, organizing of schools and classes, and that type of activity.

In that period one of the actions that I engaged in during that time was through the Northwest District Negro Commission, building the National Negro Labor Council in that area, which meant building a new organization, and trying to get it launched, and on its feet, and to carry out an active program for Negro rights in the basic concentration industries, and, in general, and in that capacity also some of the actions organized were to organize picket lines around a grocery store at 14th and Jefferson, in order to force the owner of that store to hire a Negro employee, which picket line continued until he did do so.

There were similar picket lines on Safeway Stores and some other stores in the Duwamish Bend area, to secure such employment.

Actions in the youth field were to build, not to start, because it was started, but to revitalize and to strenuously build the Labor Youth League and—

Q Can I interject to ask whether that was one of these mass organizations, or front organizations that you speak of?

A Well, it was a youth organization of the Communist Party. It was organized by the Communist Party.

Q You regard it as one of these mass organizations (tr. 846) you mentioned, or front organizations?

A Well, it is not quite in the same category as, say, the Washington Pension Union, or the trade unions, because the Communist Party did start the Labor Youth League from the ground up, whereas these other organizations had some start and program before the Communist Party

worked in them and gained control in them. Some of the trade unions.

During that period was organized the demonstration of youth at the Canadian Border, where the whole Communist Party supported it. A large meeting was held of Canadians and Americans in what was called a peace meeting, and one of the actions that was organized there was to send a telegram addressed to the youth of Nagasaki and Hiroshima, pledging to them that the American youth would not drop another atom bomb in it, that the American youth would work to see that the United States would never drop another atom bomb. The Canadian youth did not participate in this. This was done by the American youth, and participants in that demonstration.

Another action in that period was through the Communist Party and in working with the Civil Rights Congress, was to organize a continuous picket line on the United States Court House in protest against the trial of the Communist Party leaders, National Communist Party leaders. The action was, that was organized by the Party, that each region of the Party in turn would take a certain day, and (tr. 847) the Civil Rights Congress would take a day to mobilize people for the picket line, to have a continuous picket line going for, during the period of those trials.

During the, in the—

Q Mrs. Hartle, excuse me—

A During the 1948 period, the actions of the Communist Party were the—and just a little before that—were the founding of the Progressive Party and the whole campaign of getting a Progressive Party organized and on its feet, and its candidate out in the field, and as many elected, campaign to elect as many as possible.

Those are some of the activities that I can think of.

Q And were you still engaging in raising funds and recruiting members and that sort of activity, that you had been on all along?

A Yes. There was one additional activity at that time that I have mentioned in my testimony before, and that is the organizing of a special underground apparatus; quite a lot of time and attention went to that.

Q Yes. You mentioned at the very beginning of your testimony about this period your work as an organizer of South King County. You gave that some other name, something about the Boeing.

A It was the Aircraft Concentration Region.

Q Oh, yes.

(tr. 848) Now was that an effort to recruit Party members in the Boeing Aircraft Works?

A Yes.

Q When was that begun, Mrs. Hartle?

A That was begun in the work of trying to recruit Party members out of Boeing's, had been in progress in the Seattle area from the time that I first came to Seattle, the recruits—

Q Since 1942?

A Yes.

Q Now was there a strike at the Boeing factory some time shortly after the war?

A Yes, there was.

Q Do you remember when?

A As I recall it happened either in the late, latter part of 1940—probably in 1946. That is as close as I can recall. It was probably in the latter part of 1946, or, at best, in

early 1947.

Q Did you mention a Communist club with, I think, the name Hal Spring Club that was out there?

A Yes.

Q Was that, was that the club in which the recruitment effort in the Boeing factory were concentrated.

A Well, the Hal Spring Club was the name of the setup we had for the Boeing Workers, the active Boeing work-
(tr. 849) ers or those that hoped to get back into the plant. or we hoped they would get back in, were organized in small groups of two, or one or three.

There were in addition to that—

Q Well, I am sorry. I meant to ask you about this, this Hal Spring Club.

A That's what I am talking about.

Q Oh, these people were all in the Hal Spring Club?

A That's all in the Hal Spring Club. That was called the Hal Spring Club, and there were in addition to that a group of persons who had formerly worked in Boeing's, who had no hopes, who'd been fired out of there, and had no hopes of getting back in there, and there were in addition myself and one or two others who were assigned to the work in that club, where a club did meet of some probably twelve persons, who met, in a regular branch meeting of the Hal Spring Club, but attached to them through the group system of these people were some of the others.

* * *

BARBARA HARTLE, RE-DIRECT EXAMINATION

(tr. 920) * * *

Q Mrs. Hartle, you testified on cross-examination re-

garding activity of the Party in forming a picket line about the year 1947, which was intended to disrupt and cause a break-up of sittings that were being conducted by committee of the state legislature?

A Yes.

Q Do you recall, incidents during the period of the thirties, when the Communist Party in the Spokane area seized a public building in the City of Spokane and held it for a substantial period of time?

A Yes.

Q When was that?

A It was in about 1936.

Q Will you tell us how that happened.

A In 1936, the unemployed movements in Spokane, through which the Communist Party was working, had or-
(tr. 921) ganized what they called a hunger march on the county, City Building. The announced objective of this hunger march was to obtain more relief. The hunger march was organized in this fashion, that the Communist Party and the unemployed organization flood the whole building and moved into the County Building and set up stoves and tables and groceries and they slept and cooked and stayed in there day and night for about six weeks, and there were, meetings were held on the steps.

There were broad steps inside the building and meetings were held there where speakers would speak and then entertainment was provided, and this took place in Spokane in 1936.

Q For that six-weeks period the County Building was in the hands and under the control of the Communist Party, Mrs. Hartle?

A Yes.

Q As an official of the Communist Party, did you know of a similar incident in the City of Seattle?

A Yes, I do.

Q Mrs. Hartle, do you have knowledge of the Party developing what were called jamming techniques?

A Yes.

Q Will you explain to the jury, please, what the jamming technique was and how it operated?

MR. TAYLOR: Your Honor, I am going to object to (tr. 922) the form of the question. I don't know whether I will object to its going outside the scope of cross, or not, because I don't know where or when or anything about this jamming technique. If the question is made more specific I can determine whether to object further.

MR. WOERHEIDE: Tell us when this jamming technique was developed.

THE WITNESS: It was developed around 1936, around that period.

BY MR. WOERHEIDE:

Q Where was it used?

A Spokane.

Q In what place was it used in the City of Spokane?

A It was used in the building of the offices of the Welfare Department, the Public Welfare Department that issued relief and—

Q Was this technique developed by the Communist Party?

A Yes.

Q Was it carried out under the direction of the Communist Party?

A Yes.

Q All right. Now tell us what this operation was.

A It was to mobilize and to get together a lot of people (tr. 923) on the streets through a street meeting and through having put out leaflets and then to direct the assembled persons in the name of getting more relief, to crowd the whole Welfare Office, jam full of people and to crowd all the corridors, including in front of the elevator so that no one could go in and out of the building without using some form of force to disperse them, and this technique was used in order to ostensibly, at least, in order to try to gain more relief.

Q Mrs. Hartle, you were asked—by the way, was it in the discussions relating to the use of this jamming technique, was there anything said about inciting the police to action to break up the jamming of the, of this public building?

MR. TAYLOR: Your Honor, can we have specifications set by whom and when, make the question wider?

MR. WOERHEIDE:

Q Was this discussion in the Spokane Section, Mrs. Hartle, in preparation for this jamming operation?

A Yes.

Q When did this discussion take place in relation to the time when the jamming operation was held?

A Before.

Q Very soon before.

A Yes, a few days before.

(tr. 924) Q Was there anything said at that time about using this technique for the purpose of inciting the police to take forcible action against the people who were besieging the Welfare office?

A Well, what was said was that if this jamming technique were successfully carried out and if could convince the people if they really jammed up the hall and in front of the elevator, that they could get more relief by doing this, if carried through successfully, and that the only way the police could break it up would be that they'd have to use force to do it.

* * *

TESTIMONY OF RALPH C. CLONTZ, JR.

(tr. 956) * * *

Q Your name is Ralph C. Clontz, Jr.?

A That is correct, sir.

Q Where are you from, Mr. Clontz?

A I am from Charlotte, North Carolina, sir.

* * *

(tr. 960) * * *

Q As a result of this agreement, Mr. Clontz, did you take any steps to get into the Communist Party.

(tr. 961) A Yes. In September, on September the 9th 1948, I wrote a postcard to the defendant, Junius Irving Scales, at his post office address in Chapel Hill, North Carolina. On the postcard I said that I was interested in communism and that I was a Duke Law School student. That was the substance of the postcard.

Q Now, after writing that postcard, did you hear from

the defendant, Junius Scales?

A Yes. Very few days after I sent the postcard, I received a large cardboard box filled with Communist literature, including the Daily Worker, Political Affairs, For a Lasting Peace, For a People's Democracy, and a large number of various other Communist articles.

Then several days later, around the 13th of September, I received a letter from the defendant, Junius I. Scales, referring to the literature.

* * *

(tr. 966) * * *

Q Were you subsequently invited back to his home, Mr. Clontz?

A Yes. I went back to see the defendant shortly before Christmas in 1948.

Q At that time was there any discussion between you and the defendant relative to Communist literature which he had furnished you?

A Yes. I told the defendant that I had read all of the Communist literature rather carefully. He told me that he was glad that I had, that he had sent me that huge box of (tr. 967) stuff on a hunch, that he had just received a big shipment of Communist literature in from New York from the Party Headquarters, and that he remarked in the conversation, that his hunch had proved very good. He was very delighted he had sent it to me.

Q Did he state to you any plans he had about literature or distribution of literature in this area?

A He did mention at that time that he was in the process of planning a book publishing house for use of the Party in North Carolina.

Q Now, Mr. Clontz, did you have a discussion with the

defendant during that time, during your visit before Christmas in 1948 relative to the means by which communism might be established in this country?

A Yes, sir; I did.

Q Give us that discussion, please. Tell us what the defendant said about it.

A After Scales and I had discussed my reading his literature, I told the defendant that it seemed to me that with as wonderful a system as communism offered, that if the Communist Party could educate the people, the people would vote in a Communist form of government, and that it seemed to me that it wouldn't be too difficult.

The defendant, Scales, answered that that was completely impossible, and I then was subjected to about a thirty-minute speech by Scales, pointing out how false, he said—

* * *

(tr. 968) * * *

The defendant said that the idea of bringing about communism by popular vote was first of all completely impossible, that the Government controlled all of the media of communication, the newspapers, the radio, and similar things, that, furthermore, the Government controlled the institutions of government, including the Army, the police powers, the educational system and similar things, and that that made it completely impossible because the Communists couldn't reach the masses to convert them to communism by an educational process.

He went on further and said that that concept was completely fallacious, that it was based on idealism. Idealism (tr. 969) he said, was a doctrine that Stalin and William Z. Foster had shown to be completely false, that as long as the institutions of government stood and were not overthrown, that ideas could absolutely do nothing.

He said that he and the other followers of Stalin believed that you could use the institutions of government, once you had taken them over, to get across the ideas to the people. But, the defendant said that a militant force would have to force a change in government and at that point he said that is where we come in.

Scales said that Engels, one of the philosophers, had believed and had expressed that once the revolution took place, the institutions of government would completely collapse, but he said that Stalin had not only thought it but, that he had proved that that idea was wrong.

Scales said that when the revolution took place in Russia that the Bolsheviks had seized the Army and the other institutions of government and had used those to protect their Communist Government from what he called the encroachments from the outside.

Scales in his last statement, said that force was the only answer.

(tr. 970) BY MR. GAVIN:

Q Did he say anything to you, Mr. Clontz, about the struggle between capitalism and the Proletariat?

A Yes. The defendant said that one thing that must be brought, borne in mind was there was always a struggle between the bloodsucking capitalist and the Proletariat of the working class.

Q Now, what, if anything, did he say to you at that time about certain security measures?

A The defendant told me that he and Communist members all over the United States were engaging in security measures, for example, he said that he and Vera, his then

wife, never made any phone calls from anything other than a public booth, that they regularly inspected their house in Carrboro looking, as he termed it, for dictaphones and other listening devices, and that they had to always be especially vigilant for people watching them.

Q Were you furnished with any Communist literature during that visit, Mr. Clontz?

A Yes. On that occasion I was furnished with a newspaper from the Soviet Union, titled The New Times, and two or three other pieces of Communist literature.

Q Do you know whether or not at that time you were furnished by the defendant a copy of State and Revolution?

A Yes, I was furnished a special edition of State and (tr. 971) Revolution at that time, and my recollection is also that he sold me a work titled Problems of Leninism, by Joseph Stalin.

* * *

(tr. 980) * * *

Q Mr. Clontz, I want to refer to your meeting with the defendant, Scales, during the latter part of September, 1948. At that time did you and the defendant discuss the strategy of the Communist Party in bringing about the revolution?

A Yes, we did.

Q Give us that strategy as revealed to you by the defendant.

MR. SMITH: Mr. Gavin, please, what is the date, September—

MR. GAVIN: September, 1948.

MR. SMITH: All right.

THE WITNESS: In the meeting around the end of September, 1948, and various other times, the defendant gave me the basic strategy of the Communist Party of the (tr. 981) United States. The defendant explained that basically their strategy was bottomed on a concept that there were two classes of people in this country, that could be used by the Communist Party to foment a revolution.

The first class he termed the working class or Proletariat, working class, he said, had as its natural born leaders or vanguard, the Communist Party.

The second class, he described, in this country was what he termed the Negro nation. The Negro nation he described as a separate nation in what he termed the Black Belt, including thirteen Southern States, and the strategy of the Communist Party was to bring the working class, led by the Communist Party, and what he termed the Negro nation, together, to bring about a forceful overthrow of the Government.

Now Scales and the Communist Party taught that the basic strategy of the Communist Party would never change, but that tactics might be altered as the situation changed.

BY MR. GAVIN:

Q You have used the word "Proletariat", Mr. Clontz. Did the defendant, Scales, define that word to you?

(tr. 982) A Proletariat was defined by the defendant as the working class. I later had it defined by others with the defendant in the Communist Party more restrictively, but at that particular, initial contact, he did not go into detail on just what the working class was.

Q Now you stated that the defendant talked of a Negro

nation, and the Black Belt. Did he explain to you, or elaborate to you that idea?

A Yes, during my contact with Scales—

* * *

(tr. 986) * * *

Q Go ahead, Mr. Clontz.

A It was explained to me by the defendant that there was a concept of the nation devised in what he called Marxist literature. He furnished me about a six or eight-point definition, and the position of the Communist Party as set out to me by the defendant was that these Negro people in the South, while they didn't know they were a nation, were in fact a separate nation, that they should be freed, that they should have the right to choose whether they wanted (tr. 987) to secede from the Union or stay in, that the basic strategy was to offer them their freedom and self-determination and invitation to join in the Communist government in the United States and that was one of the bulwarks of the Communist Party doctrine back during 1948 and '49, and, in fact, up until the time I lost contact with them.

* * *

(tr. 993) * * *

Q Now did you see the defendant on or about the 13th of July of 1949?

A Yes, sir; I did.

Q Where was that?

A That was in Carrboro, at his residence.

Q What did you discuss at that time?

A Well, at that time one thing I recall specifically was Scales' discussion of the coming of the revolution. He brought to my attention and quoted for me a dedication in

a book by William Z. Foster, the Chairman of the Communist Party U.S.A. The book was titled Twilight of Capitalism. He told me that Foster had dedicated that book to his great grandson, who would live in a Communist U.S.A.

Q Now was there any comment by the defendant as to when there would be a Communist U.S.A.?

A On that occasion Scales told me that there was a depression coming, and that the Communists viewed the depression with mixed feelings, that Communists would suffer probably more than anyone else in the revolution—correction—in the depression, but that they actually reveled in the depression because it gave them an opportunity to reach people that during prosperous times they couldn't even reach, and Scales remarked that if a depression came, William Z. Foster's grandson wouldn't have to wait so long.

(tr. 994) Q Wait so long for what?

A For the revolution.

Q Oh.

A Or for Communism in the United States, as had been put in the dedication in the book.

Q Now when did you see the defendant again, if you recall?

A My recollection was that it was in November of 1949.

Q Where was that, Mr. Clontz?

A That was in Carrboro, North Carolina.

Q What did you discuss with the defendant at that time?

A Well, in November of '49 the defendant stated to me that while he previously had thought that I should not join the Communist Party because of the risk of not being allowed to take the bar exam, that his feelings had changed, that he felt that by August of 1950 when the bar exams

came up, the hysteria that he said had been gripping the country would have popped.

He explained that he and the other Communists were very anxious that I not get detected as some of the Communists had been, so that they could get a lawyer here in North Carolina that was a Communist, that could serve the Communist Party and could defend Scales when he eventually came to trial.

He said that he was of the definite feeling that things (tr. 995) would pop, and he explained the basis for his feeling. He said that he just had been reading in some book which he didn't identify, the writings of Lenin back in 1917 and 1918; he said that the situation in Russia in that particular time and in the United States, in 1949, was a direct analogy. He said that Lenin had pointed out in his writings around the first part of the year that the Communists were a minority, that they were outnumbered, that they were weak, but that Lenin had still expressed hope.

He said that Lenin had pointed out in July of that same year the Communists were outlawed, the Bolshevik Party that is, were outlawed, and driven completely underground. Yet, he said, Lenin had pointed out that that very next October was the famous Russian October Revolution. Scales said that he saw exactly the same analogy here. Scales said that he did not foresee a bloody revolution soon, but that it would come inevitably exactly as it had in the Soviet Union.

Q Do you recall whether or not the defendant had undergone an operation about that time, Mr. Clontz?

A Yes, my recollection is that he had just had an appendectomy about that time, and I'd been out of touch with him for a few days because of that.

Q Did he comment to you on unemployment and economic unrest in the Country?

A Yes, on that occasion he said that he was very encouraged, that he was making progress in his work here as the Chairman of the Party in the two Carolinas, and that the unemployment and economic unrest had greatly assisted him.

(tr. 996)

Q What, if anything, did he say to you about a revolution?

A Well, as I have testified, he said that he did not expect a bloody revolution soon, but that certainly if depression came, that there would be a bloody revolution.

Q Now did you and the defendant—pardon me—did you finish?

A Yes.

Q Did you and the defendant discuss any further measures at that time that should be taken either by you or by him?

A Yes, my recollection is that it was in the November, '49, meeting, when the defendant, Scales, told me that I should stop parking near his house, but instead should park back on a back alley, or street in Carrboro that ran parallel, and that I should be particularly careful.

He explained to me that the reasons for this precaution is that someone had been taking down license numbers of people that came to see him. He also told me that some time before a truck had come and ridden around his residence there five or six times, that he first had come out on the porch and stared at them, and that didn't bother them, so that, as he put it, he had gone in and gotten his shotgun (tr. 997) and gone out there port arms and then they had taken off and hadn't come back.

He said also to discourage spying on him, he had purposefully gone down to the hardware store or some store of that sort in Carrboro and had purchased a brand new box of shotgun shells when the Carrboro police were around so they'd be sure to know about it. This, he said, should discourage spying on him.

Q Now on December the 11th, 1949, state whether or not you had a conversation with the defendant relative to your joining the Communist Party of the United States.
A Yes, sir; I did.

Q Where was that meeting, Mr. Clontz?
A December of '49 the meeting was in Scales' house in Carrboro.

Q What did he say to you about joining the Party?
A At that time he suddenly came out with the question. "Do you want to join the Communist Party now?" Having already cleared this matter with the Government, I answered him yes, that I wanted to join and that if he would give me the application blank, I'd fill it out.

He said that he would submit my application to the Party leaders, but, he explained to me that nothing was in writing, that everything was oral, that for security reasons they had done away with, completely, with any written applications or anything of that sort, that he would recommend (tr. 998) that I be allowed to join the Communist Party, but that it be effective in August of 1950, because quite a few, several, as he expressed it, of the Communists there had been prevented from taking the bar examination because of their Communist membership.

Q Did you get an application blank from the defendant?
A No, as I explained, he said there were no such things.

that they had been done away with completely.

Q What literature did you get from the defendant at that time?

A On that particular occasion I got three or four pieces of literature, as I recall. I was given a study outline titled Thirty Years of the Communist Party. I was given another study outline on the Communist Party and Industrial Concentration. I believe it was on this occasion that I was given an outline on the Foundations of Leninism that Scales had prepared himself, and there was another piece of literature at the time.

* * *

(tr. 1000) * * *

Q Now, Mr. Clontz, did you ever hear, or do you know of an organization that existed down at the University of North Carolina entitled The Karl Marx Study Club?

A Yes, sir; I do.

* * *

(tr. 1002) * * *

Q Now did you attend the Karl Marx Study Club when Aptheker spoke at Chapel Hill?

A I didn't attend the club. I attended the lecture that was sponsored by the Party and that club.

Q Was the defendant, Scales, present at that lecture?

A Yes, my recollection is that he was sitting directly across from me in Girard Hall, as I recall, in University campus there on that occasion.

* * *

(tr. 1003) * * *

Q Now, will you go ahead and tell us what Mr. Apthe-

ker spoke about on this date?

A Mr. Aptheker spoke about white chauvinism and racism. He, in his remarks, said that the Negroes in the South were then, in 1950, still in slavery the same as they had been in 1860, as I recall the date, that the white bosses would keep them in chains and in slavery until both the white and Negro workers that loved freedom forced their freedom.

I remember that he said that on that occasion that Marxists and Communists believed and knew that a revolution was both a certainty and a necessity. On questioning, he defined revolution as the kind of revolution that took place in the Soviet Union.

Q Did he say anything at this meeting about the Negro Nation in the South?

A Yes, he did. He explained that the Negro people, in what was termed the Black Belt, were a nation in themselves having various characteristics or common culture and various other things he named.

He said the Communists took the position that they were entitled to decide whether they wanted to be part of the United States or part of some other nation, and that this concept was what the Communists referred to as self-determination, that the Communist aim was to free them, at which time they would have the opportunity to exercise (tr. 1004) their choice of seceding or belonging to whatever government was formed.

Q Mr. Clontz, did Herbert Aptheker explain why the revolution occurred in the U.S.S.R., that is, Soviet Russia, before it occurred in the United States?

A. Yes, Apthek—

Q How did he explain that, sir?

A Aptheker explained that there were a number of reasons why the revolution came first to the Soviet Union. He said that the people there were more oppressed than they were in the other capitalist countries. He said also that capitalism was weakest in the Soviet Union, and he said finally that foreign capital had somehow been involved in bringing the revolution there quicker than it would come here.

Q State whether or not he made any prediction as to when the revolution would come in this Country.

A I recall that during the discussion period Aptheker was asked by some member of the audience whether the revolution would come in a matter of days, a hundred years, or a matter of months. His reply was that things were moving fast and people were getting more united, and that the Revolution certainly would come before too long.

* * *

(tr. 1007) * * *

Q Now, did you see the defendant, Scales, on or about January the 17th, 1950?

A Yes, I recall that date quite vividly because it was on that day that I finally, officially, became a member of the Communist Party.

Q Now, Mr. Clontz, did you become a member of the Communist Party with the knowledge of your government?

A Yes, sir; I did, and with their prior approval. In fact, I had never seen any Communist or the defendant until after I had been in touch with the Government had had my offer of services accepted.

Q All right. State your conversation with the defendant on this date, that is, January the 17th, 1950, relative to your joining the Party.

A The defendant explained to me that I was being very honored in coming into the Communist Party in that in his entire time in the Party in the Carolinas there had been only three other people allowed to come in the Party on a member-at-large basis. He explained that it had been decided that it would not be safe for me to join the local Dur-
(tr. 1008) ham Party club because they had to protect me from the F.B.I., and they had to allow me to get through the bar examination so that I would be available to defend Mr. Scales.

He said that he had taken it up with the Party Secretariat, a two- or three-man group, according to my recollection of what he said, and with the leaders of the Durham Club, and that they had voted on me without knowing who I was and allowing him only to protect my identity rather than have me go into the Communist Party Club.

At that time, or a few days later, he mentioned that they were practically certain that the F.B.I. had an informant in that area and they were wanting to protect me from him.

Q I didn't understand; were you issued a Party card, Mr. Clontz.

A No, I was not. I asked for a Party card and all I got was a receipt for my money. It was explained to me that, as he had previously explained, Party cards had been burned and membership credentials had been done away with, with, completely, because, as he explained, the Party members had lost them and thereby got compromised and exposed to the Government, and, accordingly, in this particular period there was no written records ever given other than the receipt for the money paid.

* * *

(tr. 1009) Q Now did the defendant say anything about tutoring you further?

A Yes, the defendant said that he was going to continue private tutoring for me as a member-at-large. He told me to continue studying the works of Marx and Lenin, and (tr. 1010) with particuular emphasis on another book I had purchased from him earlier, one titled Foundations of Leninism, by—I don't recall the title, I think it was by Stalin, but I am not sure.

* * *

Q Mr. Clontz, did you meet with the defendant, Scales, again on February the 8th, 1950?

A Yes, I did.

Q Do you recall your discussion with him at that time, sir?

A Yes. On that particular occasion Scales told me again of the steps he had had to go through in order to confer the honor on me of being a member-at-large. He told me that the club had voted the power to the club leaders in Durham, and they in turn had conferred power on him to make me a member-at-large in order that I might not be (tr. 1011) exposed and prevented from taking the bar examination.

Q Well, now state whether or not around that time you were undergoing a period of instruction by the defendant, Scales.

A Yes, during that period of time the defendant was giving me private instructions that he said would prepare me for my future work in the Communist Party and possibly for forming some sort of Underground cell or club in

Charlotte after I got through law school and moved down there.

Q Did you discuss the revolution when you were talking with him at this time?

A Yes.

Q Particularly, Mr. Clontz, I would like to ask if you discussed the matter of what time the revolution would come?

A Yes, I asked the defendant when the revolution would come, specifically. Scales told me that he had been giving that matter considerable thought, that he did not feel that we would have a revolution within a very short time, but that it would come in time, and when I pressed him as to some sort of timetable on the part of the Communist Party, he told me that he could say definitely that my daughter, who then was fourteen months old, would marry in a Socialist or Communist United States.

Q What did he say to you, Mr. Clontz, about a depression being imminent?

(tr. 1012) A He said, as he had expressed before, that he felt that a depression was imminent and that the depression would greatly accelerate the coming of the revolution.

Q Did he express his attitude or the attitude of the Party relative to a depression?

A Yes, he said that the Communist Party welcomed the depression, that they reveled in it because it would serve their purposes in revolution, reaching the masses of the people and making it easier.

* * *

Q Did someone else come while you were having this

discussion with him?

A Yes. After we had completed our discussion, as I recall, one Bernard Friedland, known and identified by the defendant as Bernie Friedland, the Communist Party Organizer for North and South Carolina, came in and joined us.

* * *

(tr. 1013) * * *

Q Did Mr. Friedland question you at the time he came to Clontz's home, I mean to Scales' home.

A Yes. He questioned at quite considerable length. We went into my—

Q What about, sir?

A We went into my background. He asked me what my parents did for a living. He asked me what class of people they were from. He questioned me as to my education, as to my Army experience, and when I told him that I had been a private in the Infantry and later had been a lieutenant, the defendant came to my rescue and said that I did not have the ideology of the officer class, that I wasn't in sympathy with them, and told Mr. Friedland that he didn't need to worry about my having been an officer.

He then started questioning me as to why I had joined the Communist Party. By "he" I mean Friedland. He said, "Aren't you scared to come into the Communist Party? We know the F.B.I. has an informant in this area," and, "Aren't you scared to come in because after all Laurent France, who worked over at Duke and various other Communists, have been discovered and prevented from taking the bar exam."

I told him that I was naturally concerned, but that Scales was going to take security measures to protect me.

He then asked me why as an attorney I had not sought out reform, to reform the system, if I felt that the system (tr. 1014) of government we had was wrong. I replied to Friedland that Scales had taught me that the entire court system, the entire system of justice in this country was so completely evil that only by overthrowing the whole government and doing away with it could we ever have justice; that apparently satisfied him, and the defendant.

I later got the defendant aside and told him from Friedland's questions I thought that he was an enemy or maybe a capitalist, and the defendant told me that he was a Party Organizer from up in New York and I didn't have to be concerned about his attitude, that he had just been testing me on my opinions.

Q Now did you meet with the defendant, Scales, on March the 7th, 1950, for study and discussion, Mr. Clontz?

A Yes. Prior to this time I had been issued an outline on the Foundations of Leninism, that the defendant, Scales, told me he personally prepared. During this period of time we were undergoing study. I would take his questions that he had given me and the book, Foundations of Leninism, and in between going to law school and selling insurance, I would study the material and then would meet to recite to the defendant, who in turn would give me the correct Party interpretation of those particular things.

* * *

(tr. 1015) * * *

Q Now, Mr. Clontz, to further clarify this, what is Government's Exhibit 6, Problems of Leninism, by Joseph Stalin, is also included in that book, is it not, sir?

(tr. 1016) A. I haven't examined that particular one. My understanding is that it is.

Q All right, sir.

A But this is a more complete volume that was sold to me by the defendant, Scales.

Q Well, if you will read the selection on page 131, please.

A The defendant, Scales, brought to my attention the marked portion here on page 131, the third pargraph from the bottom, as follows:

> "Can such a radical transformation of the old Bourgeois order be achieved without a violent revolution, without the dictatorship of the Proletariat? Obviously not. To think that such a revolution can be carried out peacefully within the framework of Bourgeois democracy, which is adapted to the rule of the Bourgeoisie, means that one has either gone out of one's mind and lost normal human understanding, or has grossly and openly repudiated the Proletarian revolution."

Scales pointed out this particular passage as simply proving to me, as he already had taught, that education and reform would accomplish absolutely nothing, but that revolution, a violent revolution was the only possible way to bring about a change in the form of government.

(tr. 1017) In that connection I recall a remark that the defendant, Scales, made when I asked him why education wouldn't work.

MR. SMITH: May I ask the date?

THE WITNESS: That was in, around the, December the 21st, as I recall, in 1948.

Scales then—I don't believe that I testified about this—made the remark to me that it would be nice if revolutionary

ideas would automatically produce a revolution. But it was on that occasion that he told me that it was impossible, that a militant force would have to bring about the revolution and that force was the only answer.

On this same occasion, that is, when we were discussing in March of 1950 that book, Problems of Leninism, in the outline, he brought to my attention the first quoted small print on page 133, starting, "However," on the last paragraph of page 132, as follows:

* * *

(tr. 1018) * * *

A No, on page 135, if I may read this—I can recognize—yes, that is correct. Someone has marked the book up since I saw it, and the part that he actually called to my attention begins fourteen lines from the bottom of the page, as follows:

> "Such are the characteristic features of the dictatorship of the Proletariat. Hence, the three main aspects of the dictatorship of the Proletariat; number one, the utilization of the power of the Proletariat for the suppression of the exploiters for the defense of the country, for the consolidation of the ties with the Proletarians of other lands, and for the development and victory of the revolution in all countries."

Q Now did he explain that portion to you?

A Yes, he said that this contained the explanation of why a revolution would be easier here, that while in the Soviet Union there had been no one to help the Soviet Party, that in this country when the revolution started, we (tr. 1019) would have the benefit of the help from the mother country, Russia, in bringing about our own revolu-

tion, because part of the purposes of the Communist Party in the Soviet Union was international in scope and that we naturally would continue to receive help in all circumstances from the Soviet Party when the revolution was started here in this country.

Q Well, now did he say anything to you about what form of help would come from the, from Soviet Russia?

A Yes, I asked him whether, I asked him what kind of help we would expect. I asked him whether troops were going to be landed or just exactly how we would get help. Scales said that we could not expect the Soviet Union to land troops to start our revolution and finish it.

Scales further said that experience had taught the Communists that that sort of approach was disastrous, that we Communists in this country would have to start the revolution, and we would have to continue fighting it, tha' they in China, the Communists, had sent in Russian generals and the only result had been that the Chinese Communists had been licked completely, that the new approach, of the Soviet Union, was shown in the example of Mao, who was then Mao-Tse-Tung, who was then the leader in the Communist Chinese Government.

He pointed out that Mao had never even been to Russia, but instead the Soviet Union and the Soviet Communist Party had sent over military leaders to instruct Mao, and (tr. 1020) his leaders, and had sent over professional revolutionaries that could aid them in bringing about their revolution.

He said that we could count on drawing on the experience of the Soviet Union, and that they also would furnish us when the revolution came with experienced revolutionaries from Russia.

He said that one thing certain was that if the United States declared war on the Communists in their revolution, then the Soviet Union would land troops, and he said that would be a bloody time for all.

Q Now did you have a further discussion with him at that time relative to the Communist Party and labor unions?

A Yes. Scales said that there was a basic difference in the Communist Party and organizations, such as, labor unions. He said labor unions didn't have the advantage the Party had, of being able to see beyond the next hill. That a labor union could only see to the next hill, whereas the Communist Party could see all the way over and could see the ultimate goal, the Communist Party United States. This he termed one of the advantages the Communist Party had over the short-sighted organizations like a labor union.

Q Did he ever explain to you, Mr. Clontz, what he meant by socialism in this country and when I say "he" I mean the defendant, Scales?

A The defendant in his conversation used interchangeably (tr. 1021) socialism and communism. I later was taught that there is a technical difference, but when the defendant, Scales, and other Communists speak about the violent revolution, they refer to bringing socialism to this country.

Q Now on March the 24th of 1950 did you again meet with the defendant, Scales?

A Yes, I did.

Q Was that at his home in Carrboro?

A Yes, that was in Carrboro.

Q State whether or not you discussed your membership in the Party at that time.

A Yes. There was a brief discussion of my Communist

Party membership, it being explained to me, still by the defendant, that I was to remain a member-at-large and was to be protected by security measures he devised to keep the F.B.I. from finding out about me.

Q Now at that time, I want to ask you if you had a discussion with the defendant, Scales, relative to his concept of a materialist, a discussion of the term "absolute good;" did you have such discussion?

A Yes, I did have.

Q What did the defendant, Scales, say to you about that Mr. Clontz?

A The defendant, Scales, said that the Communist who was a materialist did not believe in the thought that there (tr. 1022) was an absolute good. He said the Communist position was that everything was entirely relative, relative, that is, to whether it helped or hurt the Communist Party. He said that materialist is new; that there are no such thing as a sin, that, for example, it was not always wrong to lie and steal and cheat and those various things. He gave his reason that, for example, in the revolution if the Communists or if the Bolsheviks had not stolen arms, they couldn't have brought about their revolution, so that certainly it wasn't a sin for them to steal on that occasion.

And he said that if a Communist was asked a question or was ordered to fill out a questionnaire as to whether or not he was or ever had been a member of the Communist Party, that it was certainly entirely proper for him to lie and say that he was not or never had been, because that was basic protection for Communists, that otherwise he might be fired, so that everything was viewed by the materialists and by the Communists as a relative matter, depending on how it particularrly affected the Communist

Party and the Communists in question.

This, he said, was a materialist concept.

* * *

(tr. 1025) * * *

Q Mr. Clontz, before the noon recess you were testifying relative to a meeting with the defendant, Scales, on March the 7th, of 1950. At that time you stated that Scales explained to you or advised you about the help that the Communist Party in this country might obtain (tr. 1026) from Soviet Russia during the revolution. I want to ask you if you have referred to your notes since the, or during the noon recess and refreshed your recollection, and if it was not in the meeting on March the 24th that he advised you as to the help that might be expected from Communist Russia?

A Well, actually, during both meetings the subject was dealt with. In the meeting, the first meeting there, the 7th of March, the defendant said and pointed out that the revolution would be easier here because the Soviet Union had had no outside countries to assist it when their revolution came about, and it was on that meeting then that he said we could expect all possible help from the Soviet Party when the revolution came about.

His reference to the landing of the Russian troops was in the next meeting which was on March the 24th, 1950, during which he told me about the experience the Soviet Union had had in China, and it was during that time that he told me specifically that the Soviet Union was not landing troops until they start the revolution, and the other testimony that I gave with the reference to his Soviet Union landing troops in the event that the United States Government attacked the revolutionists, and it was on that occasion, March the

24th. 1950, when he said that it would be a bloody time for all when the Soviet Union did land those troops.

Q Now you have identified Foundations of Leninism, (tr. 1027) which has previously been offered as Government's Exhibit No. 5. I wish you would take that exhibit, that is what you identified, I believe, as the copy of Foundations of Leninism. Are they the same, Mr. Clontz?

A I would have to compare them. The covers are different.

Q Will you turn to page 90 in Government's Exhibit No. 5.

A Yes. They are identical on page 90.

Q Will you read from Government's Exhibit No. 5, or the copy, if it is the identical copy, read the article entitled Stages of the Revolution and Strategy.

A In Government's Exhibit 5, on page 90, there is the heading number two, Stages of the Revolution and Strategy.

> "Strategy is the determination of the direction of the main blow of the Proletariat at a given stage of the revolution. The elaboration of a corresponding plan for the disposition of the revolutionary forces, parentheses, the main and secondary reserves, close parentheses, the fight to carry out this plan throughout the given stage of the revolution. Our revolution already passed through two stages and after the October Revolution it has entered a third stage. Our strategy changed accordingly."

(tr. 1028) Q Now will you go ahead to page 91?

A 91, the third line from the top:

> "The Proletariat must accomplish the Socialist rev-

olution by allying to itself the mass of the semi-Proletarian element of the population in order to crush by force the resistance of the Bourgeoisie, and to paralyze the instability of the peasantry and the petty Bourgeoisie."

You want me to continue?

Q Did you read all the page 91?
A No, the rest of page 91:

"Third stage, commenced after the October Revolution. Objective, to consolidate the dictatorship of the Proletariat in one country, using it as a base for the overthrow of imperialism in all countries, the revolution is spreading beyond the confines of one country. The period of world revolution has commenced. The main forces of the revolution, the dictatorship of the Proletariat in one country, the revolutionary movement of the Proletariat in all countries, the main reserves, the semi-Proletarian and small peasant masses in the developed countries, the liberation movement in the colonies, and dependent countries, direction of the (tr. 1029) main blow, isolation of the petty Bourgeois Democrats, isolation of the parties of the Second International, which constitute the main support of the policy of compromise with imperialism, plan for the disposition of forces, alliance of the Proletarian Revolution with the liberation movement in the colonies, and the dependent countries. Strategy deals with the main forces of the revolution and their reserves. It changes with the passing of the revolution from one stage to another, but remains essentially unchanged throughout a given stage."

* * *

(tr. 1031) * * *

Q Now, Mr. Clontz, do you know Henry Farash?

A Yes, I do.

Q Did you meet him on or about June 15th of 1950?

A Yes, I did. I met him with the defendant, Scales, in Durham, North Carolina.

Q Now where was—where?

A It was in Durham, North Carolina, as I recall, at a Dairiette in Durham.

Q Now did you have a discussion with the defendant, Scales, about that time relative to the Jefferson School?

A No. It was not at that particular occasion. I had discussed it with the defendant shortly before that, as I recall; I had seen on various occasions advertisements in the Communist paper, the Daily Worker, about a school in New York City, entitled Jefferson School of Social Science. I called that advertisement to the defendant, Scales', attention, and asked him what it was. He told me that the Jefferson School was a school operated by the Communist Party, (tr. 1032) that he had not personally been to the school, but that it was patterned after a National Party School he had attended, that it was operated by the Party, but with the pretense that it was just an ordinary school that anyone could attend, and he said that the instructors; my recollection is that he said all of the officers and most of the instructors were members of the Communist Party and prominent Communist theoreticians and teachers.

Q Did you express a desire to the defendant to attend that school?

A Initially I expressed an interest, and asked him to make inquiries and, after having obtained Government approval,

I then told him that I would like to attend the school, the problem being that I had to take the bar examination the first three days of August of 1950, and I asked him to contact the Party or the School to find out if there would be any classes available during the period I would be free.

I also asked him what possible help I could get, because at the time, in August, of 1950, I would be just through the bar examination and for all intents and purposes unemployed.

Q What did he say relative to getting a scholarship for you, Mr. Clontz?

A Well, the defendant said that he thought that he could get a scholarship for me, that he knew one Doxey, D-o-x-e-y, A. Wilkerson, who was in charge of scholar-
(tr. 1033) ships, that he knew him personally and felt certain that the Communist Party would allow me a scholarship.

He said that he wasn't sure that they would be able to help me find a place to stay because security regulations were very strong in New York at that time. But he promised to write and get a catalog and assist me in making my plans.

Q Did you hear from Doxey Wilkerson shortly after that, sir?

A Yes, some time after that I received a letter from Doxey A. Wilkerson.
(tr. 1034) * * *

The letter is addressed Mr. Ralph C. Clontz, Jr., P. O. Box 785, Durham, North Carolina.

"Dear Mr. Clontz, Jr.:

"The scholarship application form you requested is

enclosed. Please return to me promptly. Also enclosed is a copy of our summer catalog with details as to program. We shall inquire about inexpensive living accommodations and let you know if we learn of something. Presumably you want only a room for yourself. We are glad to know that you plan to be with us this summer. Sincerely yours, Doxey A. Wilkerson."

* * *

(tr. 1037) * * *

Q Mr. Clontz, you have what has been marked for identification as Government's Exhibit 51. Will you state whether or not that is the application for a scholarship which you submitted to the Jefferson School of Social Science?

A This is a photograph made, as I recall, in my presence, of the application form after the defendant had helped me fill it out. The original, of course, was mailed to the school to Doxey A. Wilkerson, but this is an accurate copy.

Q Now, Mr. Clontz, I will ask you if where it says "Name," you have not filled in that line with the name Ralph Clayton?

A Yes, that is correct.

Q Why did you do that?

A When I got the application for scholarship, I took it to the defendant, Scales, and asked him to help me fill it out. I started filling in my correct name, where the top line calls for name, at which time I was told to erase it, that no Communist—

Q Just a minute. Who told you to erase that?

A The defendant, Scales.

Q All right, sir.

A That no communist going up to New York to this

(tr. 1038) school from out of the state registered under their right names, but instead, that it would require an alias, so the defendant and I selected as an alias my first and middle name which is Ralph Clayton, and it was under that name that the scholarship application was filled out.

(tr. 1039) * * *

Q Mr. Clontz, what did Scales say to you about his having to certify you as a good Communist before you could be enrolled in the Jefferson School?

A The defendant told me that even though the catalog made it appear that just anyone could go to this school, that unless he certified me officially as the Communist leader in the Carolinas to be a good Communist, that my application would not even be given any consideration at all.

(tr. 1040) Q Do you know whether or not Mr. Scales did certify you?

A Yes, he did. The defendant wrote me a letter, that I was to attach to either the scholarship or the application for the school, as I recall it, was sent to Doxey A. Wilkerson.

* * *

(tr. 1045) * * *

Q Now, Mr. Clontz, on or about August 5th of 1950 did you go to New York to attend the Jefferson School of Social Science?

A Yes, sir; I did.

(tr. 1046) * * *

Q All right. After you got to the school, will you tell whether or not there were any security measures in effect there?

(tr. 1047) A Yes, there were very strict regulations in effect. For example, as you—the building is about a six-or seven-story brick structure. As you enter the front door, there is to the left of the entrance foyer the Registrar's

Office. Immediately to the right there are a set of stairs, and an elevator. The stairs were strictly off limits to students.

Many of the floors had the doors locked, leading from the stairs off into the particular floor, and the orders were that only with special permission could any student go above the ground floor other than by the elevator. You could not enter the elevator and leave the first floor unless you had a pass.

Now when we registered each of us was given a coded class card which did not contain anywhere thereon our name or the name of the school, in many instances, but which identified the title of the class by catalog number, the hour of the day, or night, because the school operated day and night there. In order to get them above the first floor, the elevator operator, who served as a guard, would examine your card before allowing you to come on the elevator, and if you didn't have a class card showing that you had business on above the first floor at any time during the day, you were told to get off.

In leaving the elevator, your card was checked by the guard to make certain that you got off on the particular floor.

(tr. 1048) Furthermore, there were regulations that no one could go above the first floor until the instructor had already gotten to the classroom.

They also had a double check on this regulation in that after you got into the class, the individual instructor went around and made certain that every member in the class had the proper class card.

I remember on one occasion a student was found without

a card, and the student was required immediately to leave and go get a card before being allowed to even sit in and hear anything.

This was described to me by Doxey Wilkerson during August of 1950 as security measures designed to keep the F.B.I. from getting anyone in the school and spying on them.

Q Mr. Clontz, did you take some special instruction under Doxey Wilkerson at the school?

A Yes, I did.

* * *

(tr. 1059) Q Now, Mr. Clontz, before the recess you were testifying about your attendance at the Jefferson (tr. 1606) School. I want to ask you what security regulations were in effect at the school, and particularly I want you to describe to the Court and to the jury what security measures were taken to protect Doxey Wilkerson.

A In addition to the other normal security regulations to get above the first floor of the Jefferson School, I found that without a special pass good for one trip only, you could not even get the elevator man to stop at the floor on which Doxey Wilkerson and the other staff and faculty had their offices located.

On that particular floor a large Yale lock secured and prevented entrance from the stairway, and I was told that in order to see Wilkerson, I was told by Doxey Wilkerson, it would be necessary for me to secure the pass from the switchboard operator in the Registrar's office.

The procedure setup was that I would go to the switch-

board and ask the switchboard operator there to tell Doxey Wilkerson that sometimes Clayton in North Carolina, and sometimes Ralph from North Carolina was there and wanted to see him. At that Doxey Wilkerson would O.K. my passage and I would be given, given a handwritten slip of paper on which was written "Admit the bearer to the fifth floor," as I recall, to see Doxey Wilkerson.

When I first went up there this slip was handed to the guard, who kept the slip. Later th eslip had to be turned (tr. 1061) in to Doxey Wilkerson, who would burn the slip or otherwise dispose of it, and you could not use the slip more than one time.

Q Did you on or about August the 17th of 1950 have some private instruction from Doxey Wilkerson relative to capitalism and Fascism?

A Yes, I did. I had intially scheduled myself for two weeks at the Jefferson School, as I testified before the recess. Doxey Wilkerson was to give me private instructions, which he explained would be the same that I would have gotten if I had taken regular courses at the school, the subject matter being designed to prepare me better to be a Communist here in the Carolinas.

My two weeks, later at the request and suggestion of the Government, turned into three weeks up at the school, and, accordingly, Doxey Wilkerson gave me the private instruction in his office for a two-week preiod.

The last two weeks I was in New York this particular occasion was one of the first of those private sessions in question.

Q Well, at that time did he describe to you the differ-

ence between capitalism and Fascism?

A Yes. Doxey Wilkerson said that there actually was not too much difference in capitalism and Fascism. He said the basic difference was that under Fascism there was no (tr. 1062) pretense at giving workers any freedom or any voice in the running of things, that they were slaves, that basically the capitalists were a smaller group under Fascism than under capitalism.

He said that under capitalism there was a larger group of oppressors, the ruling class, capitalists, as he called them, and that they did allow the workers some token freedoms, and pretended to allow the workers a voice in the running of things, but that actually it was not basically different, other than in degree.

Q What did he tell you, Mr. Clontz, relative to the position of the United States and Fascism?

A He said that the United States then in August, 1950, was right on the verge of Fascism and that its approach was imminent.

Q Did he explain why?

A Well, he explained to me that the United States leaders were scared. He said that they were afraid of the forces the Soviet Union had martialed. He commented on the fact that the Soviet Union and China and the people's republic were a stronger force.

I recall he said that India was veering toward the left, and that France and Italy would fall to the Communists, unless the United States acted immediately. He said that one reason why the revolution would come was that the (tr. 1063) capitalists were hastening their own death by their actions and that Fascism would bring about a change completely in all of our thinking and mode of action.

Q Now, Mr. Clontz, did Wilkerson tell you what position the Communists in the United States would take in the event of war with Russia?

A Yes. He said that one of the things that frightened the United States leaders was they knew that not only did they have to contend with China and the other Communist-dominated countries, but that also in every capitalist country the working class party, the Communists, would be working from within.

He said, for example, that it was a known fact that the Communists in Italy, rather, in France, England and the United States would never take any part in waging war or fighting the Soviet Union, and said that that was one of the things that frightened the United States leaders.

Q Did he tell you whether or not the Communists had ever believed that communism could be voted into the United States?

A Doxey said that prior to this time in August of 1950, there had been some members of the Party who had expressed hope that possibly a change in government could come about without a violent revolution.

Now he brought to my attention the fact that in that book, Twilight of Capitalism, put out by William Z. Foster, (tr. 1064) the National Chairman of the Party, Foster had said in there that the Communist position was that a revolution would not be necessary, that is, that force and violence wouldn't be necessary, but instead that they believed that a people's government could be voted in, but he called to my attention that Foster had been, as he put it, smart enough to qualify that statement and he pointed out that Foster had said that it could be voted in under present conditions.

Now he said that comments by Foster had caused considerable stir and agitation among the Party leaders. He pointed out that it was written during the Communist trial, or concerning the Communist trial of the original eleven leaders, and he pointed out to me that in the May, 1950, issue of Political Affairs it had been commented on by one of the National leaders as being something that no longer was possible.

He said that since Fascism was approaching, that that was a sort of change in conditions, Comrade Foster had had in mind, and that now that we were on the verge of Fascism in the United States, you could forget all this drivel about peaceful means and that the Communist Party recognized and expressed to themselves that the only kind of means would be proper means, which would be forceful means, that no longer was there any even pretense among intelligent Communists that any voting system or any peo-
(tr. 1065) ple's election could bring this government.

Q Did he tell you how that revolution would be started, Mr. Clontz?

A Well, he told me that the revolution basically would come about by combining the forces of what had been already identified as the Negro nation and the working class, with the Communist Party leading the working class as the vanguard, and that a violent revolution would be necessary to overthrow the Government.

Q Mr. Clontz, the Korean War was on at that time, was it not, sir?

A Yes, it was.

Q What did Wilkerson say to you would happen if the Korean War should turn into World War III?

A Wilkerson said that if the Korean War should turn

into World War III, the Communist forces in Korea and throughout the world would whip the United States forces without any trouble at all, and he again pointed out that the Communist Party would be helping out from within in this country and the other countries.

Q Did he make any statement to you about how long it would be before there would be a Communist government in the United States?

A On that particular occasion he said that, as I recall, it wouldn't be as long as it had been, and that the Fascism (tr. 1066) had speeded up the timetable.

He commented, I believe it was on this occasion, that the capitalists seemed determined to bring their immediate death rather than letting it take a long time as it otherwise would happen.

Q What, if anything, did he say to you about a comparison between the Communist form of government that would exist in the United States and the Communist form of government as it exists in Soviet Russia?

A Well, he said that the ultimate goal and the final result would be the same kind of Communist U.S.A. as the Communist Soviet Union.

Q Now, Mr. Clontz, I direct your attention to the date of August the 19th, 1950, and I want to ask you if you had a discussion with Doxey Wilkerson on that date relative to the Communist Party and how it should work after it was outlawed?

A Yes, I did.

Q Will you tell us what he said about that?

A Doxey had a session with me in his office at the Jefferson School, and I recall his instruction invariably in-

volved the use of little pieces of paper. He drew a line on a piece of paper and drew a line down the middle. On one side he said "legal", and on the other side he said, "illegal", and he explained, pointing to that, that the Com-
(tr. 1067) munist Party was now going into that phase, pointing to the part he had labeled "illegal." And he said that from now on our activities, meaning the activities of the Communist Party U.S.A., would be illegal, that in all likelihood the Communist Party would be outlawed.

He said that for this reason plans were then being studied in Party Headquarters and that he was participating in those plans to put the action of the Communist Party on a more individualistic basis. The idea being that cutting down your Party groups to smaller units would make them harder to detect, and that, of course, if the Party was outlawed, the Communists would have to learn to operate on an individual basis.

Q Did he say anything about the Communist Party in the South being experienced in its Underground operation?

A Yes. Said that that shouldn't be too new to us down South, because the Communist Party in the South had been partly underground for a long period of time. He also commented that I shouldn't be dismayed, that one thing was for sure, and that was there would always be a Communist Party even though the Party pretended on the surface to disband, and at that time he said the Party leaders and he working with them were making plans for secret communications to keep the flow of what he called life blood from New York down to the Communists in the field in the Carolinas and all over the country.

(tr. 1068) He said we could count on their leadership

and guidance whether officially the Party was disbanded or not.

Q Now, Mr. Clontz, you had with Doxey Wilkerson at that time some discussion about the Appellate Courts in the United States, did you not?
A Yes, I did.

Q I want to ask you if he gave you a formula which had been established by the Appellate Courts relative to communism, and if he wrote that formula down for you?
A Yes, he did.

Q Will you take this chalk and write that formula on the blackboard here, please, sir?
A Pull the blackboard out here.

MR. SMITH: What is the date?

MR. GAVIN: What is that?

MR. SMITH: What is the date of this?

MR. GAVIN: This is on August the 19th, 1950; is that correct?

THE WITNESS: Yes, that is correct.

BY MR. GAVIN:

Q What formula did he—
A He wrote on a piece of paper what he said was the formula that had been compounded by the Appellate Courts in the land.

The formula was "M-L=F & V", abbreviation force (tr. 1069) and violence.

Q Well, now did he explain that formula to you?

A Yes, he did in detail. That formula, he said, stood for the proposition that Marxism-Leninism equals force and violence, and he amplified it by saying Marxist-Leninist teachings equal force and violence.

Q Now in view of the court decisions, as he explained them to you, how did he tell you that the doctrines of Communism could and would be taught in the United States?

A Doxey Wilkerson explained to me that since that formula had been established, action had had to be taken by the National Party to conceal the fact that their principles and their goal and their aims and their doctrines included forceful and violent revolution. He pointed out, for example, that an official statement had been issued by the Education Commission of the Communist Party U.S.A. disowning or disclaiming certain study outlines, certain texts, certain publications put out by the Communist Party.

In fact, the order had ordered all Communist Party members to turn those in, and the statement, he said, after that particular date—I don't recall the exact date—had said henceforth, we will not recognize these as official Party publications.

He said by doing that they accomplished two things. They, first of all, established a technicality for Com- (tr. 1070) munists on trial and their attorneys, that the Party no longer accepted Marxism-Leninism, because, he said, all Marxism-Leninism included in its teachings and in its concept the basis of a violent revolution.

He said, secondly, that it did not unduly hamper the Communist Party, that in the future many things would be left unsaid that previously had been said, many things

would be left unwritten that previously had been written, that, for example, in teaching a mere bare outline, would be given, and the instructor would fill in the revolutionary part, or the students would be sent into the Marxist-Leninist works as references to find the revolution, without having it spelled out in the outline.

He said, that, naturally, would not change the basic Party goal or the basic aims of the Communist Party, but that it would make it more difficult for Communists to be convicted.

Q Now, Mr. Clontz, did you discuss with him—

Your Honor, let me move this out of the way.

A One thing I recall during our discussion, he had given me a pamphlet, a study outline entitled White Chauvinism, and he pointed out to me, he said, "Now I have been instructing you from that outline, but technically it is illegal because we Communists have disclaimed it, so that you are holding an illegal document there, actually."

Q Did you discuss with him what you should do when (tr. 1071) you returned to North Carolina, Mr. Clontz?

A Yes, I did. The defendant had suggested that I get Doxey Wilkerson's guidance in matters of that sort, and I asked his opinion as to how I could best serve the Communist Party, taking into account the fact that I was an attorney, and so on.

Q What did he say to you?

A Doxey advised me that I would be foolish to come out openly and let my Communist Party membership be known, that instead, I should remain under cover and that I would be much more helpful to the Party when the revolution came, while, at the present time I wouldn't be

as important by coming out in the open and getting exposed.

He also advised me on a series of personal tactics. He advised me to join civic organizations, political organizations, the Rotary Club, and things of that sort, try to get in a position of leadership, try to establish what he called roots in the community. He explained that way, if you could get a background of respectability, that it would make it more difficult for people to attack you, if you were accused of being a Communist, and he also pointed out that I could use my influence in these organizations I would join, to lead them in the right direction as far as they would go.

He also—I don't recall whether it was at that meeting or a couple of days later—he advised me that I, never-
(tr. 1072) theless, should maintain contact with an undercover Communist club because if I got isolated without Party direction, my efforts would be pretty largely wasted.

Q You said that he told you that after infiltrating clubs and organizations you should use your influence to lead them in the right direction. Did he tell you what the right direction was, Mr. Clontz?

A Well, towards our, the goal of the Communist Party, which he had already expressed to me, being the undermining of the Government and overthrowing the Government, bringing communism in the United States.

Q The overthrow of the Government in what way, Mr. Clontz?

A By a revolution.

Q I see.

Now you stated that he illustrated his lectures to you by drawing diagrams. Did he preserve those diagrams?

A No, I copied those diagrams into my class notes, or my notes I took, and later showed them to the defendant, Scales, when I came back. But Doxey, on that particular occasion, as he finished his lecture, the small scraps of paper he picked up and burned individually in a large ash tray he had on the desk, and he told me that he had burned, as I recall, three baskets full of incriminating documents that very day.

Q Mr. Clontz, on August the 25th, 1950, you met with (tr. 1073) Doxey Wilkerson again, did you not?

A Yes, sir.

Q I ask you if you discussed with him at that time your conversation with another member of the Communist Party as to when the revolution would come?

A Yes, I did. After Doxey Wilkerson and I had briefly discussed a rally which had been held for Communist Party members in New York the week end before, I told him that another Communist and I had been debating between each other as to just when the Communist revolution was going to come, that we couldn't decide whether it was a matter of months or years or just when. And I asked Doxey for his opinion on that question.

Doxey's answer to me was that first of all conditions were rapidly changing, that as he had pointed out to me in our prior meetings, we were on the verge of Fascism, that as an example of how rapidly the change was coming, he pointed out that when Comrade Foster, the Chairman of the United States Communist Party, division of the Communist Party, had written his book, Twilight of Capitalism, when he sent it initially to the publishers, he had had the dedication to, "My grandson, who will live

in a Socialist United States," to "My great grandson," rather.

He said that just a very short time before the book went to press, Foster had called up and insisted that they (tr. 1074) change it from the word "Socialist" to "Communist" and he said that that certainly showed the attitude of the Communist Party leaders as to when the revolution would come.

Another thing that he called to my attention was the Communist Party rally that I had attended. Now that rally was one that I had attended through the assistance of Doxey Wilkerson. He explained to me that the rally which was one or two days before this particular session, was closed to Party members and security was so tight that Doxey had had to go down personally to pick up my ticket, and the one for him and Mrs. Wilkerson.

He called to my attention a rather humorous joke that had been told by, as I recall, Irving Potash, one of the National Communist Party leaders. Potash, during that rally, had said that Comrade Stalin had been in jail for a certain number of years. I think it was twenty years, and had he, had he emerged as head of the Communist Government, said that he'd settle for a little shorter time in jail and a lesser position. He commented on that, which was intended as a joke, he said, but that actually behind that you could tell from what he called the climate of their speeches that those Communists and the other Communist Party leaders were not in a mood to wait and that it would not be too long before the revolution would come.

Q Mr. Clontz, you stated that Wilkerson advised you (tr. 1075) that William Foster changed the dedication in

his book to read to his great grandson, or—strike that, please.

You stated that Wilkerson told you that the dedication in Foster's book was first in this form, "To my great grandson, who will live in a Socialist United States." Then you said that just prior to the publication of the book the word "Socialist" was changed to "Communist." Did he explain the significance of the change from Socialist to Communist?

A Yes, he did. Doxey explained that while Communists in their general conversations and in their publications speak of bringing socialism to the country, that by so doing, they use interchangeably socialism and communism, but that technically from the standpoint of a Communist theoretician, that socialism was the stage prior to communism; that, for example, the Soviet Union had not gone after the revolution immediately into pure communism, but that instead the Soviet Union was even then still in what was technically called socialism, in that there still were immediately after the revolution certain classes, whereas communism was completely a classless society.

Q Now did he explain to you how the capitalists in the United States were helping to bring about the revolution quicker?

A Well, he said that it was on this occasion, that he (tr. 1076) said, the capitalists were speeding their death. He said that if they started a world war, if the Korean War was converted into World War III, that the revolution would come much quicker than otherwise would be expected.

Q What, if anything, did he say to you about starting the revolution too soon, Mr. Clontz?

A He said that we Communists did not want any martyrs, that the revolution should be started when the time was ripe, and not prematurely.

Q Now you stayed at the Jefferson School in New York about three weeks, didn't you?

A Yes, I did. I stayed a total of approximately three weeks.

Q Did you return to Charlotte then?

A Yes, I returned then to Charlotte and started in practicing law in Charlotte, North Carolina.

* * *

(tr. 1077) * * *

Q All right, sir. Now I want to ask you about your next meeting with Junius Scales and Henry Farash on Septem-
(tr. 1078) ber the 26th, 1950, or thereabouts. Do you recall that meeting, Mr. Clontz?

A Yes. That was a meeting with the defendant and Henry Farash, F-a-r-a-s-h, around the end of September of 1950, in Durham, sir.

Q Where?

A In Durham, as a I recall.

Q Do you recall whereabouts in Durham?

A I think that, or my recollection, rather, is that I met them at Coles Dairiette, and that after that we went up to my hotel room at the Washington Duke Hotel in Durham.

Q Now what, if anything, did Farash say to you about the clubs breaking up into smaller units?

A Farash told me in the presence of the defendant that they had just received orders from the National Headquarters that the Communist Party was to be put on a

more individualistic basis, that this meant breaking down the Party cells or clubs into smaller units, and that that was one of the things that he and the defendant were concerned with at that time.

Q Did he tell you how he and the defendant, Scales, had been engaged in raising money?

A Yes, he said that they had been engaged in a fund-raising campaign for the legal defense of the Communist Party members under indictment.

As I recall, they demanded a rather sizable contribution from me on that occasion.

(tr. 1079) Q Do you know about what that was, or what they were requesting of each member, Mr. Clontz?

A It was either a week's pay or a month's pay. I don't recall the exact amount.

Q Now did Junius Scales at that time outline to you an, additional security measures to be taken?

A Yes, he said that he and Farash had talked things over and that immediately additional security was being put into effect with respect to me, that in the future, whereas in the past, we had used postcards, no postcards would be used whatever, that no longer would the defendant write me in his own handwriting, nor was I to write him, or Farash, or any other Communist in my own handwriting, but instead, we were to use the typewriter exclusively, that I was to address him only with the initial J, and sign it with the typed initial R, and he, in turn, would use the same system of signing SJ and addressing me as Dear R; that I was to be particularly careful not to put any return address on the outside of the envelope whatever.

Q What did he say to you, if anything, about remain-

ing an Underground member?

A He told me that I definitely would remain an undercover or an Underground Communist Party member, remaining a member-at-large, and at that time I discussed with him Doxey Wilkerson's proposal that an Underground Club be set up, or that I be allowed to (tr. 1080) attend such a club up in Durham.

He said that either he or Farash would come down to Charlotte and discuss that with me.

Q Did he tell you what preparations, if any, you should make, or what duties you should undertake as an Underground member of the Party, Mr. Clontz?

A Well, at that time, he told me that there were certain specific projects he wanted me to undertake while he was getting around to organizing the Underground Club.

For example, Farash was at that time preparing an article on the Ku Klux Klan. And they asked me to dig up any information I could. Later they actually had me go down to South Carolina and cover a Ku Klux Klan Rally for the Communist Party. He asked me, he or Farash, one, asked me to undertake writing an article on Jim Crow Justice in the South, an article that would be used to spread around that justice was impossible in the South, and also he suggested that I act as a local reporter, looking for anything that might be of interest in the Daily Worker.

At that time I was to send the articles to him. He later was to send them to the Daily Worker. This later was changed when I was told to send them direct to a John Pittman, who was a Communist columnist at the Daily Worker known by the defendant.

Q Now, Mr. Clontz, you have testified about the courses (tr. 1081) that you took at the Jefferson School. Did you report on those courses and exhibit or show the notes that you took on those courses to Junius Scales?

A Yes, I showed them on that occasion to both the defendant and to Farash. I had my actual class notes there. I read over the subject matter with them and showed them the various diagrams, such as the formula for force and violence, and commented to them how much more effective the presentation was with the various charts that Doxey Wilkerson had used.

I also agreed with them that it was the same thing they'd been teaching me, but that I felt it was a little better taught at the Jefferson School because of the better teaching aids that they had there.

Q Did you discuss with them all of the instructions that you had received at the Jefferson School, Mr. Clontz?

A Yes, I went over all of it with them.

Q Do you recall whether or not the defendant, Scales, made any comment about your report?

A About my—what do you—my report?

Q What you reported to him at that time.

A Oh, he did tell me that he was very pleased with that I had taken advantage of the writings up there, and either at that time or a short time after that he said that he would in turn receive a report from the school on my participation.

* * *

(tr. 1087) * * *

Now Mr. Clontz, did you meet again with the de-

fendant, Junius Scales, in Durham on or about the 2nd of February, 1951, and discuss with him again the Jim Crow problem?

A Yes, I did. On that occasion I discussed with him the paper he was having me to write.

Q What did he say to you at that time about your paper?

A He said that it was an excellent work and complimented me on the excellent way in which I had written it.

Q Now who were you writing this paper for?

A I was writing that for the use of the Communist Party. Scales, in turn, was to forward it for possible publication to the National Party Headquarters, and it would be used in Communist teachings and propaganda throughout the country.

* * *

(tr. 1088) * * *

Q At this time, that you met with the defendant, some time around the 2nd of February of 1951, state whether or not you had a discussion with the defendant relative to the Korean War, and whether or not it had affected him in any way in his work or activities.

A Yes, the defendant, Scales, told me that he had noticed a marked change in the attitude of the people around Carrboro and Chapel Hill. He said that they were noticeably more friendly to him, and he said that the reason for this was they were trying to get in good with him because they were afraid the United States would lose the Soviet war and he would be able to put in a good word for them when that happened.

Q Mark this, please, as No. 57.

(tr. 1089) (The Clerk so marked a document as Government's Exhibit No. 57 for identification.)

BY MR. GAVIN:

Q At that time, on or about the 2nd of February, 1951, did you secure from the defendant another copy dated January the 26th, 1951, of "For a Lasting Peace, For a People's Democracy"?

A Yes, I did.

Q Is that the copy which you obtained from the defendant?

A Yes, this is marked in the border "Received of Junius Scales, February 1, '51," bears my initials, which I initialed before passing on to the F.B.I.

Q Did you mark that at the time or immediately after receiving it from him.

A Yes, I did.

Q Did you pay him for that, or did he give it to you?

A No, he explained that that was one of the free things that could come in from the Soviet Union, that was an assistance, and I never paid him for one of those, to my recollection.

MR. GAVIN: Your Honor, we offer that as Government's Exhibit No. 57.

THE COURT: The one just previously was offered, I believe, too, was it not?

(tr. 1090) MR. GAVIN: Yes, sir.

THE COURT: Let them both be admitted.

(The Clerk so marked two documents, each entitled

"For a Lasting Peace, For a People's Democracy," as Government's Exhibits Nos. 56 and 57 in evidence.)

* * *

(tr. 1100) * * *

Q Mr. Clontz, I believe I had just asked you about a meeting with the defendant, Junius Scales, on March the 3rd, 1951. At that meeting you discussed with him a transfer of your Party membership from North Carolina to New York. Will you tell us the substance of that conversation with the defendant?

A Yes. When I first brought up the question of going to New York, Scales had explained to me that there were two possible choices, that I might transfer to New York and become a Communist Party member in the New York District, or that I might remain under his optional supervision, paying my dues to him and in the Communist Party in North and South Carolina.

On this particular occasion he said that a transfer was a very complicated thing, that the National Party had put in very strict security regulations, that, as he pointed out, a letter of transfer would be worthless unless it openly identified me as a good Communist, and that that made it a dangerous document if the F.B.I. or someone (tr. 1101) like that got hold of it. So he said the rules were that only he or Farash could carry the letter of transfer to New York, or in the alternative, one of the top Communist leaders of the Secretariat, or the National Committee down in North Carolina could carry it back.

He also explained to me that I had not been a member of the Communist Party long enough under their regular rules and regulations to transfer from one state to another, but he pointed out that many exceptions to the

rules have been made in my place because of my being such a valuable asset to the Party.

Q Did he state whether or not Doxey Wilkerson could assist you in this transfer?

A Yes.

Q If so, how?

A He said that Doxey Wilkerson, who was the official liaison officer between the Jefferson School and Communist Party Headquarters, in addition to being Director of Curriculum, was in close touch with Communist Party leaders in Headquarters in New York, and said that I could count on Doxey Wilkerson to help me integrate my own personal efforts into the workings of the Communist Party up in New York City.

Q Now did the defendant ask you why you were going to New York?

A Yes. Actually I had sprung the New York move on (tr. 1102) him as something I was considering. The F.B.I. was the one that had chosen New York as my sector of activity. I told Scales originally that law practice wasn't so good, and that a friend of mine with the insurance companies in New York City was urging me to go up and take a job. At that he was emphatic in insisting that I not leave North Carolina, and then I told him that I owed it to this friend of mine to at least listen to his proposition.

On this particular occasion in March of '51, I already had taken the job and Scales again told me how much he regretted my leaving, said that I was a unique and a valuable asset to the Party, being a Southern lawyer, whose Communist affiliations were hidden, and he expressed the feeling that he would need me here to defend

him when he was indicted under the Smith Act. He said that when the indictment started, the F.B.I. would be sure to grab him first.

* * *

(tr. 1104) * * *
BY MR. GAVIN:

Q Did you meet with the defendant, Junius Scales, and Hank Farash about a week later, to wit, about March the 8th, 1951, and discuss your going underground in New York City?

A Yes, I did. It was about a week later and it was about a week before I left for New York City on my permanent change of station. I met him and Farash both in Durham, North Carolina, as I recall, and we had conferences in my hotel room up in the Washington Duke Hotel.

Q Can you tell us what instructions were given to you at that time by either the defendant, Scales, or Hank Farash, if the defendant was present?

A I was instructed by Farash, or I should say I was cautioned by Farash, to watch my step in going up to New York. He warned me not to rush in and take too active a part in the Communist work. He told me, he meaning Farash, that he felt that I would be more valuable by staying Underground up in the Communist Party in New York, that I would remain under the operational direction of Scales, the defendant, and Farash, and that if I were to join one of the New York Party Clubs, they would be so enthusiastic at receiving me from the South that pretty soon they would expose me, and

that he felt that I was much more valuable in staying concealed until the time came when I would be useful at the time of the revolution.

Q Were you to contact any of the Party lawyers in
(tr. 1105) New York, Mr. Clontz?

A No. Let's see. Yes, originally Farash did tell me that he thought I should get in touch with some of the Communist Party lawyers, but Doxey Wilkerson countermanded his instructions later and told me to stay away from them.

Q Now did you see Farash again in New York City on or about May the 15th of 1951?

A Yes. I went up to New York around the 15th of March and started in my work there for the Association of Casualty and Surety Companies, and while getting established in the new work, and in my investigative work, I had been promised previously that either the defendant or Farash would contact me periodically in New York. In May of 1951 I received my first visit from Henry Farash, the Party Organizer, who contacted me there in New York City.

* * *

(tr. 1106) * * *

BY MR. GAVIN:

Q How did you pay your dues while you were in New York, Mr.—

A Well, during the initial period I paid dues by mailing money orders payable to Junius to an address he furnished me. However, Scales explained to me that I could pay my dues to either him or Farash when either of them were in New York.

Scales had previously identified Farash as the Party representative working under his direction in North and South Carolina. Initially he called him his personal sec-
(tr. 1107) retary, but later he identified him as the Party Organizer working under his jurisdiction.

Q. Did you ever effect a transfer of your membership to New York?

A. No, I did not. I was told by the defendant that the matter would be given consideration by him and Farash, and that the final determination was that I would remain under Scales' operational control throughout my time up in New York City.

* * *

Q Mr. Clontz, what is the A.C.L.U.?

A The A.C.L.U. is the American Civil Liberties Union.

(tr. 1108) Q What is that organization?

A Well, that organization actually is of a nationwide scope. Its headquarters is up in New York City.

Q Did you ever discuss that organization with the defendant, Junius Scales?

A Well, that is one of the things the defendant told me that I should do for the Communist Party. He told me that the A.C.L.U. had originally been formed by some of the leaders of the Communist Party along with other people interested in civil liberties. He said that lately, though, the A.C.L.U. had thrown out known Communists from its ranks, including, he mentioned Elizabeth Gurley Flynn, who was one of the top Communist eleven leaders, and he told me that he had been requested by Party Headquarters to have me get in with the A.C.L.U. organization to report on what value they might

have in the coming struggle, in view of the fact that they seemed to have gone so far afield from the principles the Communist preferred.

That was one of the organizations that he suggested that I attempt to infiltrate up in New York City to make reports to him on.

Q That was on May the 19th, 1951, that he made that suggestion to you, did he not?

A Yes, sir.

(tr. 1111) * * *

Q Now, Mr. Clontz, did you meet Junius Scales again on September 14th, 1951, at Harvey's Cafeteria in Durham.?

A Yes, sir; I did.

Q Had you come down from New York for that meeting, sir?

A Yes, sir; I had come down from New York and made arrangements to meet him in Harvey's Cafeteria. He telephoned me at my hotel and said that while he didn't think the F.B.I. were on his tail, we still should simply appear to meet coincidentally at the Harvey's Cafeteria there, and that we that way could get to-

(tr. 1112) gether.

Q What did he tell you at that time about the steps that he and Henry Farash had taken towards going underground?

A The defendant told me that, first of all, he had been, he and Farash, for quite a period of time, had been bothered by a surveillance of F.B.I. agents, that he and Farash had sold the Communist Party car that I had arranged for them to get, and had bought another one, to make

identification more difficult.

He commented that they had bought a powerful enough vehicle that they could get away from the F.B.I., and that Farash was staying on the run.

Q Did he make any comparison or state to you the Communist Party—strike that, please.

What did he tell you about the Communist Party in the United States benefiting by the mistakes made on the part of the Communist Party in Germany?

A Defendant, Scales, said that Hitler had completely disrupted the Communist Party in their operations by disrupting their communications and just messing all their plans up, but he said that the Communist Party here was planning ahead, and benefiting from the experience of the Communist Party in Germany, and that, accordingly, they were setting up underground means of communication, and that that was one of the things they were working on then, to prevent the breakdown of the (tr. 1113) flow of information and communication between the field and Party Headquarters in New York.

Q What did he say about the Communist Party in the United States being prepared in the event of war, Mr. Clontz?

A Well, he commented that if war came, that they would be ready. He commented as a matter of fact that if war came, I probably wouldn't see him again, that he would be underground and that just not to look for him.

Q Now do you recall him comparing the Party with an iceberg?

A Yes, I do. He made the remark, which I later repeated to Doxey Wilkerson, that the Communist Party, particularly in that period of time and in the South was growing more and more like an iceberg with a tenth of it or a hundredth of it above the surface but the vast majority of it hidden and concealed underground.

Q How long had the party been preparing for this underground movement, Mr. Clontz?

A He told me on that occasion that they'd been preparing since the early thirties. He told me that he knew of one particular comrade back in the early thirties when Communism was regarded as somewhat sophisticated in some circles, had suddenly been ordered to quit his job, transfer to another section of the country, and completely sever all ties he had with communism or with anything leftist, that these (tr. 1114) Party members that were underground were not to contact the Party but were to wait for the word from the Party, that when the time came the Party would contact them.

* * *

Q Now, Mr. Clontz, do you know James Jackson?

A I don't know him personally. He is one of the leaders of the Communist Party. Scales mentioned that James Jackson, who at that time was a fugitive from justice having skipped bail up in New York, he mentioned James Jackson as a friend of his, and said that he didn't want to go underground unless he had to, but that James Jackson and the other fugitives that had eluded the F.B.I. were proof of the fact that you could go underground without getting caught.

* * *

(tr. 1117) * * *

Q Mr. Clontz, I believe at the close of testimony yesterday I asked you if you knew Communist leader James Jackson.

A Yes.

Q Did you identify James Jackson?

A Yes, sir. James Jackson was one of the Communist Party second string leaders, who was at the time Scales discussed him in September of 1951, a fugitive for whom the F.B.I. and other Government agencies were searching. Jackson was the one about whom Scales said that Jackson's ability to stay lost was comforting because it showed that one could go underground when it was necessary.

Q Now this was told to you by the defendant in your September, 1951 meeting with him, was it not?

A Yes, that is correct.

(tr. 1118) Q Now what, if anything, did the defendant say about your communicating with him in the event of war?

A The defendant told me that if war was declared, I should make no efforts to get in touch with him because he would be gone. He told me that I should maintain my contact with National Party Headquarters through Doxey Wilkerson, liaison man between the Jefferson School and Communist Party Headquarters.

Q Did he tell you what you should do about going underground, or what arrangements you should make?

A Well, Scales told me that I should stay underground to be available for the Party in time of emergency. He said that the Communist Party thought much more of a mem-

ber such as he thought me to be, that was, as he put it, on ice, and not spotted as a Communist.

Scales told me that the Communist Party's primary objective at that time as building up what he called contacts inside mass organizations, such as, the N.A.A.C.P., the National Association for the Advancement of Colored People, and that their secondary goal or immediate objective was building up secret communications network throughout the country.

Q Was there at that time, or was there to be any prohibition against the use of telephones and communications, Mr. Clontz?

A Well, he told me that in line with the secret communi-
(tr. 1119) cations that instructions had been put out from National Headquarters by, as I recall, John Gates, the editor of the Daily Worker, who spoke down here in North Carolina on the occasion about which I testified, and I don't remember all of the instructions, but he said that John Gates had specifically warned against using the telephones in any kind of correspondence or communication between Communists.

* * *

(tr. 1119) * * *

Q I hand you what has been marked Government's Exhibit 60 for identification and ask you if you will identify that, please sir?

A This is the letter which I received on September 17,
(tr. 1120) 1951, from Junius Irving Scales, the defendant. The letter was sent in an envelope addressed to me, Mr.

Ralph C. Clontz, Jr., Hotel Rueger, R-u-e-g-e-r, Richmond, Virginia. It was sent air mail special delivery, postmarked Chapel Hill, September 3rd, looks like September 13, 1951. The letter itself bears no letterhead. The date is 13 September, '51.

"Dear R.:

"Decided against meeting for two reasons. No. 1, urgent and unforeseen duties in next four days at widely scattered points, and No. 2, I don't think it's worth the risk to you (on the latter point I have additional reasons for concern since I saw you). You will be reached eventually. Meanwhile, there is no reason why you "- - correction- - " there is no reason you should not play a progressive role in the mass organization which you recently joined, and in broader political doings in your bailiwick, that is ALP—referring to American Labor Party—local committees" close parenthesis. "Let your status remain the same otherwise for the time being, you have excellent sources of advice available up there, but such meetings are a luxury at this time and I urge that you follow up the possibilities in the new organization, investigate them (tr. 1121) thoroughly for the role you can fill, and go to work on your own. I want to reaffirm what has been discussed previously about not exposing yourself. It is my impression that you are becoming reckless. Let's eliminate letters, telephone calls, telegrams. Other means of communication are slower but better. Thanks again for your invitation. Best regards from family. J."

The entire letter is typewritten, including the "J" at the bottom. No handwritten, other than an insert of one word

"duties" which is printed up at the top.

Q We offer that letter as Government's Exhibit No. 60, sir.

THE COURT: Let it be admitted.

* * *

(tr. 1122) * * *

Q Did you attempt to get in touch with the defendant, Scales, about Christmastime in 1951?

A Yes, I - -

Q Did you see him at that time?

A No, in December of '51 I did not see him. I had been instructed by the defendant that I could contact him through his second wife, Gladys Meyer, M-e-y-e-r, Scales, and when I called his residence in Carrboro, I was unable to reach him, but did later reach his assistant and wife, Gladys Meyer Scales.

Q You called her his assistant, Mr. Clontz?

A Yes, sir.

Q Will you state what her duties were.

A Well - -

Q What her title was, if anything, in the Party.

(tr. 1123) A Well, as it was explained to me, she was in charge while the defendant was underground, and running—she was there; for example, I was instructed by the defendant to leave any messages for him with her, and, in turn, I was to pay my Party dues by sending them to her and she, at least on one occasion, I recall specifically, took care of giving me receipts for my Party dues which, in turn, she had had the defendant to sign.

Q Did you pay Party dues to the defendant's wife?
A Yes.

* * *

(tr. 1125) * * *

Q Now will you go ahead and tell what Gladys Meyer Sacles—

MR. SMITH: Same objection.

MR. GAVIN:—told you relative to the defendant, where he was—

THE COURT: Objection overruled.

BY MR. GAVIN:

Q Where you could get in touch with him?
A On what occasion was that that you refer to?

Q That was about March 18 of 1952, I believe, Mr. Clontz.

A On March 18 of '52 I had come down from New (tr. 1126) York to attempt to contact the defendant. I contacted Gladys Meyer Scales, as I recall. She and her mother went out and ate supper with me in Durham at the Little Acorn Restaurant. She told me then that the defendant, Scales, had been ordered by the National Party Headquarters to stay underground, that she, herself, had not been in contact with him, but she had been left there to try to hold things together while he was underground, that F.B.I. surveillance had made it necessary for him to go underground because he couldn't carry out his functions in the Party without disappearing.

She told me that the defendant had sent me instructions that—

Q Sent you instructions how?
A By her.

Q All right, sir.

A That I was to make my contact with the National Committee of the Communist Party with reference to getting into underground activities through Doxey Wilkerson; to whom he already had referred me.

And my recollection is hat it was on that meeting around the 18th of March, '52, that she gave me a receipt that Junius in turn, had given her for me.

Q Now state whether or not, Mr. Clontz, Gladys Scales told you that the defendant had instructed her to tell you that your correspondence with him should be carried on (tr. 1127) through her, Gladys Scales.

MR. SMITH: Same objection, and also on the grounds of leading—

THE WITNESS: Yes. Yes, she told me, as I already had been instructed, that Scales' arrangements were that any communications I had for him I was to give her, that she in turn would give them to Scales, and would send me Scales' replies.

Now she had explained that she actually had no way of contacting the defendant herself, that her only means of communication was Scales getting in touch with her through someone in Chapel Hill, that he wouldn't even call her long distance, and, therefore, she would have to serve as the agent through which I would deal with the defendant, Scales.

BY MR. GAVIN:

Q Now did you go to Carrboro and see Gladys Meyer Scales on or about March 20th, of 1952?

A Yes, that was a few days after this particular meeting. On that occasion I contacted her, and it was at that time that I turned over a comprehensive report on my duties, I had performed for the Communist Party in New York City including my infiltration of various organizations.

She in turn accepted the report, said that she would (tr. 1128) pass it on to the defendant.

Q Who was that report for, Mr. Clontz?

A That was for Junius Irving Scales, the defendant, in that I was still under his operational control.

* * *

(tr. 1132) * * *

Q Mr. Clontz, I hand you what has been marked for identification as Government's Exhibit 62, and ask if you know what that pamphlet is?

A That is a publication called, a newspaper, by the defendant, The Textile Workers' Voice.

(tr. 1133) Q Where did you obtain that?

A I am not certain if this particular one was obtained by me.

Q Have you ever seen that before, sir?

A This particular publication was identified to me by the defendant and he did furnish me various copies of The Textile Workers' Voice. This was a publication published by the defendant and the local Communists in an attempt to influence or infil—

MR. SMITH: If Your Honor please, I object. If it is a paper, writing, it speaks for itself. I don't think the witness ought to be allowed to characterize it or draw conclusions from it.

THE WITNESS: I am sorry. The defendant explained to me that this was the Communist Party newspaper locally, that was used to attempt to influence members of the union in Irwin Cotton Mills and other mills there in Durham, to become interested in the Communist Party.

* * *

(tr. 1138) * * *

Q Now, Mr. Clontz, I hand you what has been marked as Government's Exhibit No. 63 for identification, and ask you if you wil lexplain to the Court and the jury what that is, sir.

A This is the May, 1950, issue of The Textile Workers' Voice. This is the identical document that I received from the defendant, Scales, through the mail on June the 6th, 1950. This was addressed to me, Ralph C. Clontz, Jr., 2304 Irwin Road, City, and was mailed in Durham, North Carolina.

* * *

(tr. 1149) * * *

Q Mr. Clontz, I hand you what has been marked for identification as Government's Exhibit No. 64 and ask you to state what that is and where you got it.

A This is a publication entitled, Preconvention Discussion Bulletin, issued by Communist Party U.S.A.; as written on the margin in my handwriting, I received this from the defendant, Junius Scales, Durham, North Carolina,

Room 1205, at the Washington Duke Hotel, December 15, 1950.

Q All right. Let me have it.

Now I hand you what has been marked for identification (tr. 1150) as Government's Exhibit No. 65, and ask you, please, to identify that article.

A This document is entitled New Times, a weekly journal, published by the newspaper Trud, Moscow, that was given me by the defendant, Junius Irving Scales, also in the Washington Duke Hotel on March 3, '51. It bears that indication and my initials, which I made on the document shortly after it was given me by the defendant.

Q I hand you what has been marked for identification as Government's Exhibit No. 66, and will ask you, please, to identify that article.

A This is a pamphlet which I received from the defendant on March 3, 1951, also in Durham, in the hotel. It bears my initials.

The pamphlet is entitled I Saw the Truth in Korea, by Allen Winnington, W-i-n-n-i-n-g-t-o-n, Daily Worker Correspondent in Peking, just returned from the Korean front. Facts and photographs that will shock Britain.

Q Now, Mr. Clontz, you have testified that you received these exhibits which are pieces of literature, as well as certain other exhibits, pieces of literature, from the defendant. What instructions did the defendant give you as to what you should do with the literature that he furnished you?

* * *

(tr. 1151) * * *

THE WITNESS: As I was answering, the defend-

ant from the initial contacts with him in 1948 on occasions sold and on other occasions gave me literature that he said was the official literature of the Communist Party. He told me that first of all as a good Party member I was required to buy a certain amount of literature to show my interest in the Communist Party and its goals. He also mentioned that the money from purchase of some of the literature went to support the Communist Party, and that he, himself, made a commission on some of it.

He instructed me to read the literature that he either sold or gave me for my education as a Communist Party mem-
(tr. 1152) ber. My instructions were that by reading the Communist literature, I would know what the Communist Party was doing, know what their official policy was, and it would help me prepare myself as an all around Communist, even though I was to remain underground, and it would help prepare me for the time when the Communist Party would call on me in time of crisis.

BY MR. GAVIN:

Q Now, if your Honor please, the Government will offer in evidence Exhibits No. 64, 65 and 66, which I understand you will reserve your - -

THE COURT: Suppose you let me have them after they are marked.

MR. GAVIN: They have been marked.

* * *

(tr. 1157) * * *

Q I want to direct your attention to certain organizations which you mentioned in your testimony yesterday, particularly, the A.C.L.U.

A Yes.

(tr. 1158) Q And the N.A.A.C.P.

A Yes.

Q And ask you if you took any action in those organizations in response to the advice given to you either by the defendant or by Doxey Wilkerson?

A Yes, as I testified either yesterday or today, when I had my conference with the defendant in September of '51, he told me of the dual purpose of the Party at that time, of establishing contacts in mass organizations, and also during '50 and '51, when I was preparing to go to New York, I was instructed by the defendant and Farash to infiltrate, to get into certain organizations, and when I asked them which ones, the defendant recommended the A.C.L.U. for the reasons that I testified about yesterday. The Communist Party wanted someone to report on whether it could be counted on as aiding the Communists.

But the defendant told me to go to Doxey A. Wilkerson for guidance in which organization I could best infiltrate, so that in the year 1951—I don't recall—it was towards the latter part, I contacted Doxey A. Wilkerson and Doxey first advised me as to the peace organizations.

The Communist Party, he explained to me, was using peace as one of their tactics to try to get support of the working class, the Negro nation, and of the public generally. Included in this peace campaign was the action of the Com-
(tr. 1159) munist Party here in North Carolina, and throughout the United States, to oppose the Korean War, the Party position being that it was a war started by the United States and the capitalists, so my first organizations I was told to attempt an infiltration or a joining with, were peace organizations in New York.

However, I never actually did anything other than attend rallies that were suggested by Doxey Wilkerson, because on one occasion he sent me down to join a peace organization and from the time I left his office until I got approximately a mile away by subway, the organization had gone out of existence, and they were putting another name on the door.

He next suggested that I follow through the defendant's suggestion about infiltrating the A.C.L.U., and I went up to the American Civil Liberties Union Headquarters in New York, only to find out that it was not the sort of organization the defendant apparently had thought, had said it was; but that it did not have an active chapter that I could successfully infiltrate. I reported this to Doxey Wilkerson and, in turn, he suggested that I infiltrate the National Association for the Advancement of Colored People. He told me that the Communist Party did not have a majority on the National Board of the N.A.A.C.P., but that they had a strong minority, and that I could assist the Communist Party by getting into one of the local N.A.A.C.P. organizations in New York.

(tr. 1160) I recall that Doxey first sent me out to Jamaica, New York, to meet the N.A.A.C.P. Chairman of the Jamaica Branch, but when I got out there, I was very hostilely received and was informed that they weren't meeting, which I reported to Wilkerson. Wilkerson's remark was that they must have suspected that I was a Communist, and he cautioned me not to let any of the N.A.A.C.P. people in the leadership know of my Communist connections because the very purpose was to get me into the N.A.A.C.P. without their knowing that I was a Communist.

He then directed that I contact the Nassau County

Branch of the National Association for the Advancement of Colored People, and its headquarters, as I recall, was in Hempstead, H-e-m-p-s-t-e-a-d, Long Island, New York, which was about twenty miles away from where my family was living in Wantath, W-a-n-t-a-t-h, Long Island.

I contacted the N.A.A.C.P. leaders out there, and did under the direction of the Communist Party, join that particular branch. I made regular reports on my work in infiltrating the N.A.A.C.P. Branch, and these reports were made to Doxey Wilkerson, as well as to the defendant, Scales.

I did rise to a position of leadership. I was elected on the Board of Directors of the Branch of the N.A.A.C.P.

Doxey Wilkerson reported to me that there was a struggle taking place out there, and an attempt to take over that particular branch by other Party members who were work-
(tr. 1161) ing out there, and I was instructed to go in and help them take over control.

It happened during that time that a member of the National Committee of the N.A.A.C.P. identified to me by Wilkerson as Gloster Current, G-l-o-s-t-e-r, C-u-r-r-e-n-t, was very rabidly anti-Communistic and, accordingly, it was suggested by Wilkerson that I join with the Communist elements in Nassau County, and join them in an attempt to oust Gloster Current and to discredit him before the National Board.

At the time Gloster Current, who was Director of Membership on the National Board of the N.A.A.C.P., was attempting to revoke the charter of that branch because of what he alleged and what was attempted, the Communist domination of the branch. In the course of that meeting, in the course of that struggle, rather, I was directed by Wil-

kerson, so far as advice was concerned.

I came in contact with National leaders of the N.A.A.C.P., and was complimented quite highly by Wilkerson on my efforts to discredit the anti-Communist elements in the N.A.A.C.P.

During that period, which culminated in, around March of 1952, I was told by Wilkerson that a struggle, terrific struggle was taking place inside the National Headquarters of the N.A.A.C.P., and that they were having difficulty in taking over the N.A.A.C.P. to use it. It was also during (tr. 1162) that period that I made my full written report to the defendant, Scales, which report I previously had discussed with Wilkerson.

Now in addition to the N.A.A.C.P., I was instructed by Wilkerson to become active in the local organizations in my community, and I was a member of the Board of Directors of the community organization known as the Forest City Community Association, or the Forest City Association. I was instructed by Wilkerson to look for any opportunity to carry out the Party purpose, by my not being revealed as a Communist member; he pointed out in the N.A.A.C.P. that I could advocate things the Party stood for without being what he called Red-baited, where a person that was tabbed as a Communist would immediately be shouted down.

Now one of the other organizations that Farash had instructed me to infiltrate was the Civilian Defense setup, but I never actually made any efforts to infiltrate that organization.

* * *

(tr. 1164) * * *

Q Now, Mr. Clontz, you have testified to joining

certain organizations at the instructions of Doxey Wilkerson and the defendant. Do you know whether or not other Party members joined those organizations with you?

A Well, they didn't join them with me, as I have testified. I was instructed by Wilkerson to assist the Communist Party members who already were in the Nassau County (tr. 1165) Branch of the N.A.A.C.P., who already were waging the struggle to take over the branch. There wasn't a matter of their joining with me.

* * *

(tr. 1168) * * *

Q Mr. Clontz, was your action in the American Civil Liberties Union and in the N.A.A.C.P. taken pursuant to the instructions given you to put theory into practice?

A Well, partially. Now, as I have testified, I didn't actually take any part in the A.C.L.U. The defendant had instructed me to, but I found as a practical matter that there was no A.C.L.U. Branch that I could infiltrate.

Now my action in infiltrating the N.A.A.C.P. was taken as one of my Communist Party assignments that were given me officially by the Communist Party, by Scales, and by the person he designated as my liaison between Communist Party Headquarters and myself, Doxey Wilkerson, and it was a sort of action that Wilkerson described as putting theory into practice.

(tr. 1169) Q Now was anything said to you by either the defendant or Doxey Wilkerson, or any of the other National Party leaders about these activities, serving to achieve the ultimate goal of the Communist Party?

A Well, as I have already testified, the defendant told

me in September of '51, as I recall, that that was one of their goals in attempting the mass contacts, and Wilkerson on numerous occasions told me that this infiltration program into the N.A.A.C.P. was one of their attempts to win over the Negro people, that he called the Negro nation, and his attitude was if you can get people to go part of the way with you, then go with them that far, and you may later bring them all the way into the Communist Party.

As an example, Wilkerson described to me his somewhat undercover activities as a professor in college. This was back during, as I recall, it was in the summer of 1951. He said that I, as an undercover Communist, was somewhat in the same position he had been in when he was a professor at Howard University in Washington, D. C. He was not allowed to preach communism from the platform as a college professor, but that he was able to reach the students in discussions and other out-of-class activities, and I recall his saying that many of the students he had under him at the time he wasn't openly known as a Communist were now strong Communists supporting the Party.

* * *

TESTIMONY OF OTIS R. REAVIS

DIRECT EXAMINATION

* * *

(tr. 1303) Q Did you meet Junius Scales on or about March 24, 1949?

A Yes, sir; I did.

Q Would you relate briefly the circumstances of your meeting?

A He came to see me about a Communist Party transfer card. I was being transferred into the area and he came to me with a Bernie Friedland.

Q Now, who was Bernie Friedland?
A He was a Party D.O.

Q For North Carolina?

* * *

(tr. 1304) * * *
Q You used the word "D.O." What is D.O.?
A District Organizer for Communist Party.

* * *

(tr. 1305) * * *
Q Now what did you say you discussed with Scales on your meeting on March 24, 1949?
A He asked me if I had been in the Party before, and that is the Communist Party, and I told him I had, and he (tr. 1306) asked me if I had a transfer. I had written previously to Bernie Friedland and telling him I was interested in the Party in this area, and they asked me for my transfer card. I am not positive whether it was that first meeting or not, but anyway, I gave them the transfer card either at that meeting or previous to that.

* * *

(tr. 1306) * * *
Q Now did you again see the defendant, Scales, on or about April the 26th, 1949?
A Yes, sir; I did.

Q Would you state to the ladies and gentlemen of the jury what that occasion was and what transpired?
A Well, he asked me if I'd be interested in going to a school, a Social Science, I believe he gave me, a school, and it would be in a large city on the East Coast. He didn't name the city. And that he wanted to know if I would go.

I didn't give him a definite answer at the time.

Q Now did he tell you how to give him an answer in case you decided to go?

(tr. 1307) A Yes, sir; he gave an address to write.

Q Well, now did you at a later time advise him that you would go?

A Yes, sir; I did.

Q Would you state what arrangements were made for your expenses for that trip?

A All my expenses was to be paid by the Party to go to this school, and all my meals be taken care of, and at the school it was pointed out that we could receive doctor's treatment and we would be assigned places to stay.

Q Now do you recall when you actually left for the school?

A Not exactly when I left. I was supposed to be there on the 9th of May.

Q 1949?

A 1949.

Q Now were your expenses for the trip paid to you before you left?

A Yes, sir; they were.

Q By whom?

A Bernie Friedland.

Q Were arrangements made for that payment in the presence of the defendant, Scales?

A I don't recall him being at that meeting. I recall just Bernie Friedland.

(tr. 1308) Q Did the defendant, Scales, tell you that

the expenses would be paid by the Party here in this state?

A Yes, sir; they would.

Q Were you given any instructions by the defendant, Scales, as to what you were to tell your friends and relatives at home as to why you were going to New York?

A Well, on our first meeting, when I pretended not to want to go to the school, I gave the excuse I didn't want to have another incident or anything that would be found out, and so he advised me to tell my friends when I left for the school, to tell them I was seeking employment.

Q In New York?

A That's right.

Q Now did he give you any instructions, defendant, Scales, give you any instructions as to whom to contact when you got to New York?

A Yes, sir; he did.

MR. WILLIAMS: Your honor, I would like this marked as Government's Exhibit--

THE CLERK: This will be 69.

(The Clerk so marked the slip of paper as Government's Exhibit No. 69 for identification.)

BY MR. WILLIAMS:

Q Mr. Reavis, I hand you here what has been identified as Government's Exhibit No. 29—

(tr. 1309) THE CLERK: 69.

MR. WILLIAMS: 69. I am sorry.

BY MR. WILLIAMS:

Q Would you examine it and tell us what it is?
A These are my directions I received as to where to go in New York, and who I was to call for, and what I was to do in case of an emergency.

Q Now from whom did you receive those?
A It was given to me by Junius Scales.

Q You have your own handwriting on the back, setting forth the time, and so forth?
A Yes.

MR. WILLIAMS: Your Honor, I would like to read this to the ladies and gentlemen of the jury.

"Monday, May 9th, 1949. Before noon, Jefferson School of Social Science, Sixth Avenue at Sixteenth Street, go to building without package, ask for Hy Gordon—in emergency go without package to 35 East Twelfth Street, ninth floor, ask for Betty Gannett or Jack Kling."

And on the back is, "Given to me by Junius Scales when I went to school in New York, J.S., Box 62, Chapel Hill, North Carolina."

BY MR. WILLIAMS:

(tr. 1310) Q That is in your handwriting, the back part?
A Yes, sir; that is my handwriting.

* * *

(tr. 1310) * * *

Q Now what were you told about your expenses while you were in New York, Mr. Reavis?

MR. SMITH: By whom and when?

BY MR. WILLIAMS:

Q Told by the defendant, Scales, if anything?

A They would be taken care of after I got to New York; someone at the school would take care of those.

Q All right.

Did you go to New York?

A Yes, sir.

Q As you planned, and what day did you arrive there?

A It was on the 9th of May, '49.

* * *

(tr. 1312) * * *

Q The questions I am going to ask you relate to the school. If you feel that you need to refer to your reports, I want you to feel free to do so.

Do you recall taking a course there called Capitalism and Imperialism?

A Yes, sir.

* * *

(tr. 1313) * * *

Q What other courses were you taught there at the school? Were you taught anything relating to infiltration of organizations?

A Yes, sir. We were taught that the Communists should

always be willing and able to go into any organization and to work with the masses and work with any group, whether we could see eye-to-eye on any views they might have, to work and be part of the masses and provide leadership.

* * *

(tr. 1314) * * *

Q Now what were you taught in the course of Capitalism and Imperialism?

A Well, capitalism and imperialism was the two main forces that were in the world today as we knew it, and the Party advanced the view that they could live, coincide, at one time, and at again they would say they couldn't. It was back and forth and—but they would advance views on both sides, so that I got the feeling that it was so you'd be (tr. 1315) prepared to defend yourself in any kind of situation.

Q Well, did they teach you at what stage capitalism had reached in the world and in this country?

A Yes. It had reached what they called deteriorating stage.

Q Describe what they meant by that.

A Well, we were given an illustration of what the leader of China, Communist China, had advanced. I don't recall his name. He said that United States was likened to a giant, and that all the capitalist countries of the world was resting on this giant's shoulders and once the giant had been fallen, that all the capitalist countries of the world would likewise fall to the China.

Q Did they teach you what would be necessary to fell this giant?

A Well, they would teach it in the way that you knew

to go with the masses and work with them, wherever, whatever organization they might be in, and to be willing to seize any situation, or proceed on any avenue, until you reached an obstacle, and if you couldn't remove the obstacle, your advance would be constant, made constantly to socialism, and if you couldn't remove the obstacle on the avenues as illustrated, you would proceed on another direction, but always keeping in mind that socialism was your ultimate goal.

Q Did they tell you what other direction that would be?
(tr. 1316) A I don't understand the question, I don't believe.

Q Did they tell you what other direction would be necessary to fell this giant that they described was America?

A Well, the giant—well, they gave another illustration likened to a dragon and he was in the deteriorating stages. A lot of people might get hurt by a dragon that had been fallen, by the situations in the world today, and the way that things were, it's just like a dragon dying that people get hurt, but, and you should prepare yourself to take care of yourself in these situations.

They—we took the text of that line of thinking from books, but that was just an illustration that I recall in my mind. It stood out more than the passage from some of the books that we took our references from.

Q Mr. Reavis, where, primarily, did the students at this particular course that you had come from?

A Throughout the South.

Q Were they all from Southern States?

A That's what we were told.

Q Were you given a course in Negro History by Eliza-

beth Lawson?

A Yes, sir; I was.

Q Would you state briefly what you were taught in that history course?

A Well, we were, we understood, that we felt that the (tr. 1317) Negro people was the only revolutionary group within the United States that we could ally themselves with, and hope to reach their gains through the avenue of force and violence, by overthrow of the Government, by Proletariat faction, that they gave us several different views on the Negro question.

It was covered about as well as any course I think that was at the school.

Q Were you taught that the Negro people of the South were entitled to form a Negro nation?

A Yes, I was.

* * *

(tr. 1317) * * *

Q Were you told of your purpose in being taught that course?

A We were told that Negro people was a people that had been brought by slavery into this country against their wills, and then they had never reached the point of freedom; they were still being exploited even though the laws made it appear that they were free. They deserved the right to be a free nation, and they—there was an illustration that there was a black veil that lie—I am not positive of the boundaries of it—it's in one of the books, I think I brought back—it lies from near Maryland to Mississippi. That is the (tr. 1318) way I remember the map, it lay along the mountain range two hundred miles in either direction. Some areas

are spotted. They are different localities where it is predominantly Negro, that these people were being exploited by the factions and the Government of the United States, and that they deserved the right to be free that if—we discussed it in our class; everyone advanced views on it—if we decided that it constituted a nation, that they thought it would be advanced by Joseph Stalin at the time to the United Nations that this nation be a free nation, if all the views that they had constituting a nation were fulfilled in this group in the Black Belt.

Q Well, now were you told to go back into the Southern Region and to expound that story to the colored people, tell them about it?

A You were expected to seize any situation that would lead to your gain, ultimate gain of socialism. You didn't get yourself out on a limb by pointing this out and putting yourself in a position of being pointed out as a Communist, but you seize any situation, if you seen people going in the right direction, you encouraged them. If they went in the wrong direction, you would try to steer them right.

You would not get up and get yourself out on a limb by leading them in the way that you might be accused of Communist.

(tr. 1319) Q Were you told particularly to point out the various means of oppression of the Negro people in order to recruit them into the Communist Party?

A Well, they were—you had to point out to them that they were being oppressed, that they were only given menial jobs and labor, and that every faction of this Government which all factions are corrupt in a capitalist form of Government to their point of view, but you were to—I got my-

self lost there. I am sorry. Could I hear the question again, please?

(The reporter read the question.)

A Well, we were to point them out in a way to let them know that they were being oppressed and to let them know that we were their friends and their allies, someone that they could trust in, and we would lead them to a better way of life, not pointing out what that way of life was, but leading them and letting them know that they were with their friends and allies.

Q Was that to be for the purpose of recruiting them in the Communist Party, as an ultimate goal?

A You never hesitate to recruit anyone into the Party. If you could see any way that you could bring them around to Party views.

Q Were you taught at the school what to do relative to participation in unions and in strikes?

(tr. 1320) A Yes, sir. We were told that a Communist always joins any union, whether it might be a union to—that it was, as they label, a company union or—let's see what other—they had different labels for the different type unions, whether it was C.I.O., A.F. of L., they had them all in category, that they pointed out was the most progressive and the one that was the most Fascist-minded.

Q Were you told to go into the union wherever you might be and offer leadership, provide the leadership for the union?

A Yes, sir; always be willing to accept leadership in the unions and always join the union, whichever may be representing the place of your employment.

Q Were you taught a course up there entitled The Struggle Against White Chauvinism?

A Yes, sir.

* * *

(tr. 1329) * * *

Q Mr. Reavis, turning back now to the Jefferson School, or the completion of it, when you finished your work, your teaching, your course of instruction at the Jefferson School, (tr. 1330) did you return to North Carolina?

A Yes, sir; I did.

Q Did you then become a part of the regular Communist Group in North Carolina?

A Yes, sir.

* * *

(tr. 1330) * * *

Q Now getting back to the school for just one question, were you given any instructions up at the Jefferson School as to your own security, what you should do in guarding the security of the school?

A Yes, sir; we were told not to all leave the building as a group, looked like we might be in a school, or to go in ones and twos to lunch, not to carry any books. If we car- (tr. 1331) ried any books, to put them in newspapers; that we weren't to talk to people, that we live with, or were assigned to live with because they had their own particular business and they weren't interested in us, and we shouldn't bother them with our school activities or have, and our business, that we were doing in New York.

We weren't to write and give their return addresses unless we asked their permission, and there was others, i

don't recall them at this time.

Q Now you say you returned to North Carolina and became a regular member of the Communist Party organization in this state.

Did you become acquainted with a person by the name of Harvey Cox?

A Yes, sir; I did.

Q Was he an officer in your Party Club?

A Yes, sir; he was secretary-treasurer.

Q And did you hold an office, also, in that particular club?

A Yes, sir; I was Literature Director.

Q What were your duties as Literature Director?

A I was to receive literature from the defendant, Junius Scales. Sometime I would get it by person, by mail, or, and I was to circulate it through the Clubs, sell it, and if I could sell it to people outside of the Club without en-
(tr. 1332) dangering my own security, I was to do that.

Q Now at that time where were you working? Did you ha[illegible] employment?

A I think I was working at Myrtle Desk Company of High Point.

Q Did you later get a position at Western Electric Company in Winston-Salem?

A Yes, I did.

Q Did you discuss the prospects of a position over there with members of the Communist Party here in the state?

A Yes, sir; I did.

* * *

(tr. 1332) * * *

Q Did anyone tell you what to do relative to, or tell

(tr. 1333) you anything to do relative to signing certain documents upon employment relative to anti-sabotage or non-communism?

A Yes, sir; they did.

THE COURT: Now let us see who it was.

THE WITNESS: Do you want me to answer?

THE COURT: Who was it?

THE WITNESS: Harvey Cox, or the defendant. I'd like to explain this, if I may.

THE COURT: All right, sir.

THE WITNESS: At this time I wasn't meeting with Junie at the time that—I mean Mr. Scales at the time—sorry—and I was advised through Harvey to seek employment in Winston-Salem, first at Reynolds. I didn't get employment there and—

BY MR. WILLIAMS:

Q Now that is the R. J. Reynolds Tobacco Company?

A Yes, sir; and then I was advised to seek it at Western Electric, and at the time I think that I was advised to go there, I wasn't seeing the defendant. He was not meeting with us, and, but I was receiving my instructions at—first he told me it was Party instructions, and then later he told me that I was getting my instructions from Junius Scales, and later I bumped into Mr. Scales at Harvey's home and I— the report said I'd been getting or the advice I'd been getting was confirmed by him. I advanced the question on (tr. 1334) what I should do in case I did get employment there at Western Electric, and I knew it was a, Government work, what I should do in case I was asked to sign certain papers, and I was told to do the same, that they had when

signing a Taft-Hartley affidavit, to go ahead and sign them, that before they did, the defendant asked me if I had signed any papers that might be used as proof that I was in the Party, and I didn't remember any.

He told me to write The Worker, and send them a letter.

Q What do you mean by "The Worker"?

A The Daily Worker, that I was receiving, paper subscription. I was subscriber of—I am sorry—he told me to write them and tell them that I didn't know how the paper had gotten started to me, but I wanted it to stop, and so I could use that as evidence if there is ever brought up in court that I was never a Party member, that I didn't—I got The Worker, but I didn't know how it started. I didn't know anything about it.

Q Well, now were you told how you could continue to take the Daily Worker in someone else's name?

A Yes sir. I was to pay Harvey Cox for the subscription and I was to pick it up at his home.

* * *

(tr. 1335) * * *

Q Now about what period is this, first, if you can get down to about the approximate time?

A It was the latter part of '51.

Q All right. Now describe your meeting defendant, Scales, at Harvey Cox's home.

A Well, I was to see Harvey Cox on some Party business. I don't recall what it was. I called on him and his wife answered the door. They were living in an upstairs apartment, and we chatted for awhile there in the hall, Harvey's wife and I, and I told her I'd see them later, and I started to leave.

I had gotten half way down the steps and we were talking low, and the defendant came out and seemed to try to get back before I saw him, and she apologized, and that, he came out, and she—he said that was all right and he knew me, and it was all O.K., and we stayed and talked and discussed my status at Western Electric, and we had a game of chess, as I recall it.

Q Would you describe his appearance?

(tr. 1336) A Yes, sir; he had cut his hair off, I think, from the time I saw him previously, and I commented on it, and he said, yes, he'd changed his disguise somewhat, said, that he had thought about dyeing his hair, but he was afraid the rain might streak it, and he thought about losing or gaining weight, but he hadn't decided which one at that time; due to the high cost of groceries, he thought it would be better to lose weight.

Q I believe you stated that this was right towards the end of 1951?

A Yes, sir.

Q Was the defendant, Scales, at that time, was it common knowledge among the Party members that he was supposed to be undercover?

A It was, oh, our club, it was stated by he and the Party District Organizer at the time they left, that they wouldn't see us for some time. They didn't say how long, or why they were leaving. It was just left that way, and so we didn't see them any more. It was, oh, seems like maybe six months. It could have been more or less that I hadn't seen him.

* * *

TESTIMONY OF OBADIAH JONES

DIRECT EXAMINATION

(tr. 1363) * * *

Q Reverend Jones, directing your attention to 1947 specifically, April, 1947, did you attend a Communist Party Training School at that time?

A Yes, sir; I did.

Q When and where was it held?

A 1041-A North Grand Boulevard, St. Louis, Missouri, Communist Party Headquarters.

Q And was there a principal teacher at that school?

A Yes, sir; there was.

(tr. 1364) Q And this school was held during what period of time?

A It was held during the period between April 4, twenty-nine days consecutive, 1947.

Q Was there a principal teacher at this school?

A Yes, sir.

Q And who was this principal teacher?

A Man by the name of George Siskind.

Q Do you recall the first time you saw George Siskind?

A Yes, sir.

Q When was that?

A About a week prior to the school. I saw him at the Communist Party Headquarters.

Q And what was the occasion of your seeing George Siskind?

A We were having a Communist Party Committee meeting.

Q Did George Siskind speak at this meeting?

A Yes, he did.

Q W as he introduced by anyone?
A Yes, sir.

Q By whom was he introduced?
A He were introduced by Ralph Shaw.

Q Now Ralph Shaw, did he have any position in the Communist Party of the State of Missouri at that time?
A Yes, sir.

Q What position did he have?
(tr. 1365) A He was Chairman of the Communist Party of the State of Missouri.

Q Do you know whether or not at or about that time Ralph Shaw had another position in the Communist Party?
A Yes, sir.

Q What position?
A He was State National Committeeman and a member of the State Committee.

Q What did Shaw say at this time concerning Siskind?
A Shaw stated that Siskind was one of the early teachers of the Communist Party and what he was he owed it to him.

Q Did Shaw say why Siskind was in St. Louis?
A Yes, he did.

Q What did he say in that connection?
A He said that he was sent to St. Louis by the Communist Party National School Commission to conduct a school.

Q And what did—did Siskind speak at that time?
A Yes, sir; he did.

Q What did he say?

A Siskind said that he was sent there from New York to conduct a school and that he had no report to make, but he did, wanted to say that the Communist Party was a large organization and must have been very strong and powerful because the capitalists had done a terrific job trying to outlaw the Party. It hired numerous men to (tr. 1366) analyze the Constitution, see whether or not they could outlaw it, and if they did outlaw it, some of the men would be sorry.

Q What, if anything, happened after this meeting, Reverend Jones?

A We proceeded to register.

Q Well, now, directing your attention back to this Section Committee meeting, were there two meetings at that time?

A Yes, sir; there was.

Q What happened after the second meeting?

A After the second meeting?

Q Did you have a conversation with anyone?

A Yes, sir; I did.

Q With whom?

A Man by the name of Bob Manowitz.

MR. TAYLOR: Pardon me. What was the name?

THE WITNESS: Bob Manowitz.

BY MR. KEENEY:

Q Do you know whether or not Bob Manowitz had any position in the Communist Party at that time?

A Yes, sir.

Q What position, or positions did he have?

A He was instructor of the Communist Party at that particular time.

Q Do you know whether or not at or about that time he (tr. 1367) held any other position in the Communist Party?

A He'd been State Educational Director.

Q Of the State of Missouri?

A Of the State of Missouri, and a member of the City Committee.

Q What did Manowitz say to you at that time?

MR. TAYLOR: Excuse me, Mr. Keeney. Your Honor since this is again a new witness, I just want to note for the record our running objection to all this testimony as unconnected with the defendant.

THE COURT: All right, sir.

BY MR. KEENEY:

Q Now, Reverend, did you understand my question, what did Manowitz say to you at this time?

A Manowitz told me that there was going to be a meeting conducted, and that I was expected to attend the meeting, said the meeting would run from nine o'clock morning, five o'clock evening, and we was planning to give eight hours to the study of communism.

Q Did he describe it as a meeting, Reverend?

A School.

Q School?
A Yes, sir.

Q Now did you subsequently attend such a school?
(tr. 1368) A Yes, sir.

Q And when did you commence attending this school?
A On April the 4th, 1947.

Q And where was the first session held?
A The first session of the school was held at the Communist Party Headquarters, 1041-A North Grand Boulevard, St. Louis, Missouri.

* * *

(tr. 1369) * * *

Q Now directing your attention again, Reverend Jones, to the first class, who opened the first class?
A Bob Manowitz.

Q Do you recall what he said at that time?
A Yes, sir.

Q What did he say?
A Bob Manowitz stated that George Siskind had been (tr. 1370) sent to St. Louis to conduct a school and that the students would learn more about him as the classes would progress.

Q Did he say by whom George Siskind had been sent?
A He said he had been sent by the Communist Party National School Commission.

Q And did Manowitz say whether or not he would have any function at the school, meaning Manowitz?
A Yes, sir; he did.

Q What did he say his function would be?

A He said he would act as a Supervisor and co-teacher and that his function would be passing out literature and helping the students with their class work.

Q Now did Siskind speak at that time, Reverend?
A Yes, sir; he did.

Q What did he say?
A Siskind said that the Communists in this area, and generally all over had so much to learn that he was sent there from New York to teach them communism, and he said if a man was a doctor, he studied medicine; if he was a chemist, he studied chemistry; and since we were all Communists, we had to study the language of Marx.

Q Did George Siskind at that time indicate how long he had been teaching Marxism?
A Yes, sir.

Q How long did he say?
(tr. 1371) A He said he'd been teaching Marxism since 1919.

Q Reverend, was there a registration procedure followed at the school?
A Yes, sir.

Q Who conducted that?
A Mr. Siskind.

Q I ask you whether or not there were any books distributed at the school.
A Yes, sir.

Q Who distributed them?
A Bob Manowitz.

* * *

(tr. 1373) * * *

Q Now, Reverend, during this school was the Negro question covered by George Siskind?

A Yes, sir; it was.

Q Now do you recall whether or not he used a book in that connection?

A Yes, sir.

Q What did he say?

A He used the Foundations of Leninism.

Q Was a policy of self-determination discussed at this school?

A Yes, sir.

Q What did Siskind say about it?

A Siskind said that self-determination was an instrument used to expose, expose imperialism and that the (tr. 1374) Communist Party, that Lenin had proved throughout the revolution of the imperialistic war, and the Russian Revolution, that the only way the national problem could be solved would be in connection with the Proletariat Revolution.

Q Now you say the national problem. Did he say whether or not there was a connection between the Negro problem and the national problem?

A Yes, sir.

Q What connection was there, as he said it?

A He said that the Negro problem was a national problem because the Negro constituted a nation.

Q Now was there a discussion of the so-called Black Belt?

A Yes, sir.

Q By Siskind?

A Yes, sir.

Q What did he say in that connection?

A He gave the geographical setting of the Black Belt, and said that it constituted seven states, two hundred and ninety counties, and that the Negro was in the majority in this given area.

Q Did he indicate why he considered the Black Belt to constitute a nation?

(tr. 1375) A Yes, he did.

Q What did he say in that connection?

A He said the Black Belt constituted a nation because of common language, common culture, economic rights, and numerical majority, and the Negro was in the numerical majority.

Q Did he say what the Communist Party would do in connection with this self-determination?

A Yes, sir; he did.

Q What did he say?

A He said that the Communist Party would lead the Negro to self-determination, and through the leadership of the Communist Party the Negro would discover that he was a nation.

Q All right. Now did he discuss the landless state of the Negro?

A Yes, sir.

Q What did he say in that connection?

A He said the capitalists had kept the Negro landless and he were powerless to make guns and ammunition to

protect himself against the revolutionary white.

Q Did he make any reference to the army of the capitalists?

A Yes, sir.

Q What did he say in that connection?

A He said that the capitalist particular army was afraid (tr. 1376) to put guns in the hands of Negroes, and he also stated that even in the last World War they were afraid to put guns into their hands, but they had to do so.

Q Reverend, you made a reference to protecting themselves against revolutionary whites. Did you mean revolutionary? Direct your attention to what you said previously, that about protecting the Negroes against revolutionary whites. I ask you whether or not you intended to use the word revolutionary. I don't know whether you understood that.

A Would you state the question again, please?

Q Well, I asked, was just directing your attention back, you said that the—

A Oh, I didn't mean revolutionary. I meant reactionary.

Q Reactionary. Thank you.

Reverend, did you have a course covering the subject matter of the people against the Trusts taught by George Siskind at this school?

A Yes, sir.

Q Did you use any books or texts in that connection?

A Yes, sir.

Q What book or text did you use?

A The textbook, The People Against the Trust.

Q Is that a book, a pamphlet by Eugene Dennis?

(tr. 1377) A Yes, sir; it is.

Q Now I ask you whether or not Siskind asked any questions in connection with this discussion?

A Yes, sir; he did.

Q Do you recall a question with respect to the method of attacking capitalism?

A Yes, sir.

Q What did he say?

A He said the way to attack capitalism was to fight for socialism, and also to take over the capitalist plant, and wipe them out.

Q Now I ask you whether or not a question was asked of Siskind at this time.

A Yes, sir; there was.

Q Who asked it?

A I did.

Q What did you ask?

A I asked him how would this be done.

Q What was his answer?

A He said it all depended upon how the capitalists wanted Communists to take over.

Q Did someone else in the class make a statement at this time?

A Yes, sir.

Q What was the statement?

(tr. 1378) A The statement was—

MR. TAYLOR: By whom, Mr. Keeney?

BY MR. KEENEY:

Q I don't think it is pertinent as to by whom, but I will ask it.

By whom?

A The statement was made by Hersho Walker.

Q What did Hersho Walker say?

A He said he didn't think the capitalists would ever give up.

Q Did Siskind make an answer to that?

A Yes, sir; he did.

Q What did he say?

A He asked him what would a Red do if you got him holed up in a corner.

Q What did—did Herschell Walker give an answer?

A He did.

Q What was his answer?

A He said that the Red would fight back.

MR. TAYLOR: Rat or Red?

THE WITNESS: Red.

BY MR. KEENEY:

Q Did Siskind say anything at that time?

A Yes, sir.

Q What did he say?

(tr. 1379) A He said that was the answer to your question.

Q Was there any discussion during this course of the

stage in which the United States is in, or was in at that time?

A Yes, sir.

Q What was the discussion by Siskind?

A It was—

Q What did he say?

A He said the imperialistic stage was the final stage of the capitalist society.

Q Did he say what the next stage would be?

A He said the next stage would be socialism.

Q Reverend, was there any discussion of certain families in the United States during this course?

A Yes, sir.

Q What was it, by Siskind?

A It was.

Q What did he say?

A Siskind said that there was sixty-two families that governed the United States, and that they lived sumptiously off the exploiting of labor, the working class, and that they was afraid to allow the working class to have a fair living, that they were afraid that they would have to come down off of the high horses on which they lived or rode.

Q Reverend, in connection with this discussion of these (tr. 1380) families, was there an illustration given by Siskind?

A Yes, sir; there was.

Q What was the illustration?

A He gave an illustration of a drove of geese flying and he said that whenever you saw a drove of geese, the had a leader, and if he wanted apprehend that drove, w

would shoot the leader down, and the rest of them would come to the ground, and you could apprehend them easily.

Q Did he say anything about strategic spots in the United States in the event of war?

A Yes, he did.

Q What did he say in that connection?

A He said if these families lived all in one spot, it would be easy to drop an atom bomb and destroy them all, but since they lived at different spots, that Russia knew the strategic spots of the country, and when they got ready to do business, they wouldn't be wasting bombs.

Q Now, Reverend, was there any discussion of the desire on the part of the working class and the Progressives for socialism?

A Yes, sir.

Q Did Siskind say something in this connection?

A Yes, sir; he said that the working class and the Progressives was ready for socialism, and that they would lay down their lives, if necessary, to obtain it.

(tr. 1381) Q And how would it be obtained, according to Siskind?

A Siskind stated that it would be obtained through bloodshed, if necessary.

* * *

(tr. 1395) * * *

Q Reverend Jones, getting back again to this Training School in 1947 in St. Louis, did there come a time during that Training School when George Siskind discussed various historical periods of society?

A Yes, sir; he did.

Q Do you recall what he said in that connection?

A He said that there was five historical societies that had been—

(tr. 1396) Q Do you recall those, and can you give them as George Siskind gave them?

A Yes, sir.

Q Would you do so, please?

A Primitive communism, slavery, feudalism, capitalism and imperial capitalism.

Q Imperial capitalism?

A Yes, sir.

Q Does he say whether or not the United States was in one of these periods or stages?

A Yes, sir; he did.

Q What stage?

A Imperialistic stage.

Q Now did he say anything about the death of these periods?

A Yes, sir.

Q What did he say in that connection?

A He said all of these societies had come to being and lived and died, and many of them had died in bloodshed, and the capitalist society might also die in bloodshed, but even fundamental it would die.

Q Did he say anything with reference to capitalism and war?

A Yes, sir; he did.

Q What did he say?

(tr. 1397) A He said capitalism needed war and in peacetimes they had cut enough throats and killed enough

people to keep the administration strong and powerful, but a new season had come and the end would come when the Communist Party would get close enough to link horns with the other revolutionary society.

Q The end would come when the Communist Party would what, sir? I didn't understand that last part.

A The end would come when the Communist Party would get close enough to link horns with other Communist members of Russia.

Q Now, Reverend Jones, was there a question asked at this time, as you recall?

A Yes, sir: there was.

Q Would you recall who asked it?

A Yes, sir; I did.

Q What did you ask?

A I asked when war would come against capitalism, would they defend themselves.

Q Did George Siskind answer your question?

A He did.

Q What was his answer?

A He said, Yes, they would definitely defend themselves, but there would be no use because there was other Communist nations that would surround the United States and (tr. 1398) come to the defense of the Communists, and the only way the United States would have out would be to break the reign of the Capitalists.

Q Reverend Jones, you referred to the book, History of the Communist Party Soviet Union being used at this Training School. In what course was this used?

A In the course of the Five Historical Periods.

Q Was it also used in a course on the History of Russia?
A On the History of Russia, too; yes, sir.

Q Did George Siskind teach this course?
A Yes, sir; he did.

Q Do you recall what he said in teaching this course?
A Yes, sir.

Q Would you tell us, please?
A. Siskind said that there had been get-together of the people in Russia in order to set up the Communist Party back about 1884 through 1898, but it had failed. The Party that they set up didn't do what they wanted done. It worked for a nickel an hour more rather than prepare the workers for revolution. And, of course, that was not the type of Party which they wanted. 1898 they made another attempt.

Q Now, Reverend, did he discuss the Communist Party in relation to the general staff of an army?
(tr. 1399) A Yes, sir; he did.

Q. What did he say in that connection?
A He said general staff of an army was different from the Communist Party or general staff of an army operated from a safe spot from behind the line, and led the army from a far distance, and that the Communist Party went forth and fought with the workers.

Q Did he say anything with reference to the techniques?
A Yes, he said that you couldn't be a good leader without knowing all of the techniques of fighting.

Q Did he say anything with respect to carrying out instructions?
A Yes, sir.

Q What did he say in that connection?

A He said that capitalists in the army did not carry out the instructions in full, but the Communists did, irregardless of what the cost would be, they would carry out instructions completely.

Q Reverend, directing your attention to the final session of the School, did George Siskind direct that final session?

A Yes, sir; he did.

Q Would you tell the jury what he did on that occasion?

(tr. 1400) A The final session of the School, Siskind gave a final summary of the work that had been done that week, and allowed each student to say what he wanted to say about the work, and then he said that we had made great accomplishments, and that we must all start out from that day on to put them in practice.

Q To what, put what into practice, Reverend?

A What we had been taught in the Communist Party School.

Q On this, at the occasion of the last session, did you have a personal interview with George Siskind?

A Yes, sir.

Q Would you describe what happened at that time?

A I talked to him and he autographed a personal notebook of mine.

Q This personal notebook, is that merely a notebook where you kept names of and addresses of friends?

A Yes, sir; it was.

Q And so forth.

What else happened?

A And he told me he was going to New York and out

of New York about fifteen miles, he would conduct another Communist Party School.

Q Did he say how long this School would last?

A Until July.

(tr. 1401) Q And did he indicate where he was going then?

A He would go from there to California and conduct another Communist Party School. Said he would be glad if I would correspond with him and he would be glad to send me any material of which I should like to have.

Q Reverend, did anything else take place at this final session?

A Yes, sir.

Q What took place?

A At the final session we was given a pledge by Mr. Siskind.

Q Now you say you were given a pledge. What do you mean by that, Reverend? Can you describe that?

A Well, I mean that he said that we all must take a pledge.

Q First of all, will you tell us what the, how did he give the pledge to you?

A He worded it out, and we, as students, repeated the pledge after him.

Q And did each and every student recite the pledge?

A Yes, sir.

Q What was the pledge as given by Siskind and as given by the students?

A. The pledge was each of us are Communists or members of the Party and each of us have a responsibilit

(tr. 1402) and we must carry out our responsibility and work for the interests of the Party and its recipients and carry out the full will of the Party even though it meant to fight and to kill, we must carry out the demands of the Party and all of them.

* * *

TESTIMONY OF BELLARMINO J. DURAN

DIRECT EXAMINATION

(tr. 1421) * * *

Q Is your name Bellarmino Duran?
A Yes, sir; it is.

* * *

Q Where were you born, Mr. Duran?
A I was born in Dulce, New Mexico.

Q Dulce, spelled D-u-l-c-e?
A Yes; it is.

Q Where do you live now?
A In Denver, Colorado.

Q By the way, what is the date of your birth?
A December the 10th, 1923.

(tr. 1422) Q While you were a child was Spanish spoken in your home?
A Yes, sir.

Q Where did you live during the early years of your life; just give us the states.
A Colorado, Wyoming, Idaho.

Q How many years did you go through school, Mr. Duran?

A Seven.

Q Now directing your attention to the month of March in the year 1951, did you at that time attend a special school?

A Yes, sir; I did.

Q Where was it?

A In Bonnie Beach Place, in City Terrace Drive, Los Angeles, California.

Q What was the name of this school?

A National School for Mexican Cadres.

Q What organization established this school?

A The National Education Committee of the Communist Party U.S.A.

Q Was this a school that was solely for members of the Communist Party, Mr. Duran?

A Selected cadre, with a cadres that were highly trusted and people that had been ideologically developed as well as politically.

Q I see. At this time were you a member of the Com-
(tr. 1423) munnist Party?

A Yes, sir; I was.

* * *

(tr. 1425) * * *

Q Mr. Duran, who were the persons who were in charge of this school that you attended in Los Angeles in March, 1951?

A Art Berry, District Organizer from District of
(tr. 1426) Montana, Idaho, Colorado, Utah, New Mexico, Arizona, and Texas, and Professor Alberto Morean,

M-o-r-e-a-u, from the Jefferson School in New York City.

Q When was the first session of this school?

A The first session at that school in Los Angeles was held Monday, March the 7th, 1951.

Q How many persons were present?

A Nineteen.

Q How many of these nineteen were students?

A Seventeen.

Q Who were the other two persons, who were present?

A More than the seventeen?

Q No, who were the other two persons besides the students, of the seventeen persons who were present?

A The ideological teacher, Alberto Moreau, and the political teacher, Art Berry.

Q Did all these students in this school speak Spanish, Mr. Duran?

A Yes.

Q Could Professor Moreau speak Spanish; do you know?

A I'd say sufficiently to have conversation, but not to conduct an ideological school.

Q How about Mr. Berry?

A No, sir; other than two or three words, and that is it.

Q Was the teaching in this school in Spanish or in (tr. 1427) English?

A Both. At the beginning it was in Spanish, and it became necessary to change it into English language.

Q Mr. Duran, directing your attention to the opening

session of this school on March 7, 1951, did Mr. Berry at the time of the first meeting make a talk; do you recall?

A Yes, sir.

Q What did he say?

A At the orientation of the school Art Berry stated to the class that this was the National School for Mexican Cadres, to study theory of Marx and Lenin and in relationship to the liberation of the Negro people, the Puerto Rican people, and the Mexican people, of the Southwest, U.S.A.

Q Did he say anything about establishing a commission at that school?

A Yes, sir.

Q What did he say?

A Well, in this orientation he went into the necessity of establishing a School Commission to control the policy of the school, and also to handle any grievances that may arise, he proposed the division of the school into three groups with study club captains as their heads and also one librarian and one secretary to the school, and Professor Alberto Moreau, himself, as part of the Commission to the school.

(tr. 1428) Q Do you recall whether or not you were named a member of this Commission, Mr. Duran?

A I do.

Q Were you named a member of this Commission?

A Yes, sir.

Q What were your responsibilities?

A I was made a study club captain and my responsibility in the school was to help handle policy of the school

and also teach in my study club, the members, whatever lessons they were assigned by the professor or Art Berry.

Q How many study clubs were organized at this school?
A Three.

Q Do you recall whether or not Berry introduced Alberto Moreau to the students?
A Yes, sir; I do.

Q What did he say at the time?
A He introduced Alberto Moreau as a member of the National Education Commission of the Communist Party, and also as a man who was very capable throughout the years of teaching the science of Marx and Lenin and also the person that had taught him, Art Berry, what he knew about Marxism-Leninism.

Q Now after this introduction, Mr. Duran, did Mr. Moreau make a talk?
A Yes, sir.

(tr. 1429) Q What did he talk about?
A He talked about the monopoly of capitalism, stating that as the capitalism became more decadent, it matured into the imperialistic stages, into imperialism. He outlined the necessity of teaching the masses, the people, the desirability of changing the system and in so doing, we had to teach the people that it could only be done successfully through the Proletarian Revolution.

He divided in his explanation the Proletarian, Proletariat—excuse me, as being divided into two groups. Those in industry that would lead the revolution, and those in agriculture that would follow, and speaking about the revolution, Professor Moreau stated to the class in a very emotional manner that he could see himself carry-

ing a gun against the capitalist S.O.B.'s, and explained to the class it was all based on the science of Marx and Lenin.

Q Now, Mr. Duran, did you have a notebook with you while you were at this school?

A Yes, sir; I did.

* * *

(tr. 1431) * * *

Q Mr. Duran, your notebook has now been marked as Government's Exhibit for identification No. 75, and I now hand it to you. What was the first thing that Professor Moreau said about the qualification of a cadre, Mr. Duran?

A I'd like to make reference to my notes.

Q Surely.

A He started out with asking us, the class, a question, which are the qualifications of a cadre and why. One, working class; the Party teaches us that the Bolsheviks must be conscious of the experiences of the working class as well as the existing conditions in every and have direct contact with the workers on all forms, but specifically with the Proletariat.

Q Mr. Duran, with regard to this reference to Bolsheviks—

A Yes, sir.

(tr. 1432) Q What was Mr. Duran's teaching in this school with respect to Bolsheviks?

A You mean Mr. Moreau, sir?

Q Professor Moreau, yes.

A Well, the teachings of Professor Moreau in rela-

tionship to Bolsheviks and what it meant in this. First, the Communist enters the Communist Party and he is tested by practice whether he is a sincere member or not. Then during trials and tribulations of that cadre in the Communist Party, if he does not betray the Communist Party, goes through the jail, goes the courts and everything that the Bourgeoisie can throw at him, then and only then is he a Bolshevik, a Soviet in true sense of the word.

Q Was anything said in this school as regards training the students to be Bolsheviks?

A Yes, sir.

Q What was said in that respect?

A The entire school was, according to the statements of Professor Alberto Moreau, to train the special selected cadre in this school to be Bolsheviks. That is what he expected out of us, and that is the way he was going to teach us, and if we made mistakes, he was going to crack down on us as Bolsheviks.

Q Mr. Duran, will you refer once again to your notes and tell us what the next statement was of Professor Moreau?

(tr. 1433) A Yes, sir. The victory of the Proletarian Revolution and victory of establishing a dictatorship of the Proletariat is impossible without a revolutionary Party of the Proletariat, free from opportunism, and indefinitely free from misleaders first qualifications he must be a worker and also class conscious in and by no means an opportunist.

Q Now, Mr. Moreau—correction—excuse me, Mr. Duran. Mr. Duran, how did Mr. Moreau discuss this Proletarian Revolution? What did he say it was to be?

A In discussing the Proletarian Revolution more thor-

oughly Professor Moreau explained throughout the schoo
that the Proletarian Revolution would only come abou
if a Bolshevik rank and file, the sincere Communists
would get out and teach, and teach the people, the de
sirability of changing the system and the necessity o
changing them, and in doing that, we had to teach th
people that you cannot change the capitalist system to a
Socialist system, to socialism successfully, the peacefu
way; it had be erupted from, and had to be taken awa
by force and violence, away from them and the entire
state machinery of the Bourgeoisie smashed, the F.B.I.
the courts, and the Army and the Navy, whatever was
on it, what—the entire instrumentality of the Bourgeoisie
had to be smashed and substituted by the Proletarian
machinery.

It meant achievement could only come by the Com-
(tr. 1434) munists going out and teaching the people
that the capitalist system was rotten to the core. It could
no longer serve the way the people, the way it should,
and show them all the benefits—excuse me—and show
the people all the benefits that there was, in socialism for
them, and during the period of the revolution the transi-
tion, the violent transition, we had to make mass work
to get the masses away from the Bourgeoisie so they
would not join a counterrevolution movement.

It meant after the people of the Communist Party, the
vanguard, had become satisfied, that the Bourgeoisie ma-
chinery was smashed, and they were in control, then
they also had to collect guns from the people and control
the people themselves.

Q Do I understand, Mr. Moreau, that during the
period of revolution the people, that is, the masses of the

people, would be carrying guns?

A Yes, sir.

Q And after the revolution do I understand that the Party would go around and collect these guns and take them away from the people?

A Yes, sir; take them away from those that helped them overthrow the capitalist system in order to assure the revolution itself—that is where I missed a point there—not, I am not referring to my notes.

Immediately after the overthrow of the capitalist sys-
(tr. 1435) tem and establishment of the dictatorship of the Proletariat, it became necessary for a Communist to establish Red Army in this country, not only to secure and maintain the dictatorship of the Proletariat, but control the people as well, and those people that did help overthrow the Government would not have any civil rights whatsoever, no voting rights, or anything: they would be dished out to them according to the way they felt, way they fell in with the Communist office by the dictatorship.

Q Now, Mr. Duran, what, if anything, did Mr. Moreau teach you in this school about the role that would be played by the Communist Party during this period of revolution when the Government would be overthrow by force and violence?

A The role of the Communist Party, and specifically within the Communist Party, the Bolsheviks was to play a vanguard role, a leading role; that is explained scientifically in that so that first we teach the people the desirability of overthrowing them and teach them the, it could only be done through the Proletarian Revolution, and then when the time is ripe we could stampede them against the capitalist class.

Q Mr. Moreau—Mr. Duran—excuse me. I am very sorry.

A Apology is accepted.

Q Was there any teaching by Mr. Moreau regarding (tr. 1436) Marxism-Leninism as a guide to action?

A Yes, sir.

Q What were you taught in that respect in this school, Mr. Duran?

A I'd like to make, again, reference to my notes, if you please, may do that.

Q Surely.

A Under the explanation of the qualifications of a cadre, a dictation of Professor Moreau at the school points out the answer to your question now. The point of knowing theory does not mean we can memorize all the formulations of Marx, nor that we use Marx, Marxism as a blueprint, nor does it mean by no chance that it is a dogma, but it is a guidance for action, the one that gives the working class an open door, an opportunity to self-improvement, the workers as a whole.

We comrades must learn how to solve problems.

Do you want me to continue or does that answer your question?

Q That, I believe, answers the question, Mr. Duran

A Yes, sir.

Q Was there anything said to you about taking back to other people the teachings that you had received at this school?

A Yes, sir.

Q What were you taught in that respect?

(tr. 1437) A Well, the entire teachings, the entire scientific teachings of Marx and Lenin in that school was supposed to be taken back and employed at different levels on the organization.

However, there was a special request that the qualifications of a cadre be specifically explained to all, in our Communist Party groups, committees, or whatever form of organization we were participating in.

* * *

(tr. 1443) THE COURT: Let the jury withdraw.

* * *

(tr. 1453) * * *

THE COURT: All right. So much for that.

Now taking up for a minute this whole subject to production and protection under Section 3500, I do not know that we have been following the provision in the statute, but sealing up the portions that you have not divulged, and making that available to the Court of Appeals in the record if—

MR. KEENEY: As I understand, we have come to an agreement, Your Honor, on all of it, all that's been produced so far; so there is no requirement under the statute.

MR. TAYLOR: I guess technically that is not true on Lautner. I think the Court reviewed everything there and we never made any showing or argued. I don't think it occurred to me until this moment what we had done about Lautner. It is true that on Mrs. Hartle I think we agreed, seems to me that you had one paragraph that you wanted out and I said that was O.K. with me, and that is the way it went.

MR. SMITH: I seem also to recall that next, I believe next one, Lautner, you made the statement on the record that we would follow this procedure without waiving any rights to contend that the Section 3500 didn't comply with the constitutional requirement of due processes.

MR. TAYLOR: Hadn't come up on Clontz.

MR. KEENEY: You mean I said it?

(tr. 1454) MR. SMITH: Mr. Taylor said it. We had an operating agreement, but without waiving the right to contend at some later time that Section 3500 itself did not satisfy the constitutional—

MR. TAYLOR: That is the constitutional point, yes.

MR. GAVIN: That was my understanding.

THE COURT: But that was over and above everything else.

MR. TAYLOR: On Clontz, of course, we haven't finished looking at the reports yet, and if I recall rightly, there are some fairly extensive clippings, in some of those documents. So I would suppose to be, say, workmanlike, to put them in an envelope and seal them up for appellate purposes, if need be. Is that arduous? I hope not.

MR. KEENEY: Starting with Clontz?

MR. TAYLOR: Well, let's see, I guess Lautner. I guess Lautner.

MR. WOERHEIDE: We will actually—it's a little bit premature, I think on Clontz because technically speaking he has not been discharged as a witness. He is still on the stand and still subject to cross-examination.

MR. TAYLOR: Yes.

MR. WOERHEIDE: And there are still reports that we are attempting to procure to comply with your request that we haven't yet obtained.

(tr. 1455) THE COURT: Well, just bear that in mind. We ought at the end of the case either have a stipulation covering it, or we ought to perform in accordance with the statute.

MR. KEENEY: I would like to be clear on Lautner. I am afraid we have started to distribute those back to the field offices. If they are to be sealed, we would like to be—

MR. TAYLOR: I suppose if something is going to be sealed, we might as well seal it all. Wouldn't that be the best thing to do? Of course, we have, I hope we don't have to do anything more about it.

MR. KEENEY: I don't think you took any exception to the decision of the Court.

MR. TAYLOR: I don't believe I have, but we have not gone beyond the point where we theoretically could, if we wanted to.

MR. KEENEY: I am not going to raise a technical objection, but the record, I think, shows that you didn't press upon the Court the fact that you might want additional material that is being excised. I don't think it would be quite fair at this point.

MR. TAYLOR: It really doesn't matter. I don't care one way or the other about Lautner, if you want to move him out of that. That's O.K. with me, and the same goes with Mrs. Hartle because, if I understand

rightly, what he told me, the only thing that was taken out of Mrs. Hartle's reports, were the identifying numbers, and the one paragraph that you showed me be-
(tr. 1456) fore.

MR. WOERHEIDE: There was a paragraph—just for the record, to make it absolutely clear, that did not relate in any way to her past activities as a member of the Communist Party.

MR. TAYLOR: Well, that is the paragraph that you didn't show me and that we said we would not insist on being reviewed.

So we can rule out those two and seal up the subsequent witnesses, I mean, their remarks.

* * *

CROSS-EXAMINATION OF BELLARMINO DURAN BY MR. TAYLOR

(tr, 1460) * * *

Q Have you ever heard Art Berry teach what the task of the Mexican cadre should be in the Communist Party?

A Yes, sir.

Q Tell us what he said about it.

A Making reference to the different schools that Art Berry taught in or specifically in Los Angeles School?

Q Will you tell us specifically what you heard him say and what he said?

A In the Estes Park Communist Party School, Estes Park, Colorado, and at the Jefferson Communist Party School, at Evergreen, Colorado, Art Berry taught that the Communist cadre in the Communist Party had the

responsibility—

Q Did you say Mexican cadre or Communist?
A Mexican cadre.

(tr. 1461) Q Mexican cadre. Excuse me.
A Had the responsibility of leading the people and teaching them the desirability of changing the system, and also in doing so, that it had been, had to be done through the Proletarian Revolution. He taught the cadres had to be steeled, had to raise their culture, had to get to the level of Bolsheviks, and those teachings he taught to the cadres there, that the level in achievement and culture that—I am not reading from this—that the level in teaching, that in achievements, that Lenin, Engels, Stalin and the rest had achieved could also be achieved by the Mexican cadres.

This was not impossible. They were not superhumans, and we definitely could do it through the process of day-to-day struggle in the development of the science of Marx and Lenin.

Q Now at this Estes Park School, did he also teach you that it was the task of the Mexican cadres to work for peace and peaceful settlement in Korea through the medium of newspapers and churches?
A Yes, sir.

Q He did?
A Yes, sir.

* * *

(tr. 1463) * * *
Q My question is this. While you were a member of the Communist Party and holding these positions, what

activities did you engage in in behalf of the Communist Party? What did you do?

A I'd like to use some of my notes on that, if you will allow it.

Q Well, I am perfectly willing to allow, but I want to be sure you understand the question.

A I do.

Q I am not asking you where you were, or what your responsibilities were. I wanted to know what you actually did by categories?

A By categories in the Communist Party—principally, I was Educational Director in the Mexican West Side Branch of Denver, Colorado. My discharge of duties there were to teach the membership how, to teach the (tr. 1464) people the desirability of changing the system and also that it could only be done successfully through the Proletarian Revolution.

Q All right. You taught—

A And—

Q Go ahead.

A Pardon me?

Q Go ahead.

A In the State Chairman of the Mexican Commission my responsibility was to develop the science of Marx and Lenin in all the different stratifications of work within the Mexican field work.

As Chairman of the group it was my responsibility to see that that science was applied to the work.

As a Group Captain it was to get the people working, actually putting the theory into practice, and to teach the people that theory without practice, or practice without

theory was absolutely nothing, in the activities of the National Association of Mexican Americans, that is, the English translation of Associacion Nationale, Mexico-American.

Q That's what you call the A.N.M.A.?

A A.N.M.A.; yes, sir. In this course that was created by the Party to my knowledge I participated with instructions from the Communist Party in the United States Department of Agriculture hearings at Greeley, Colorado, (tr. 1465) in reference to price and wages, and the Denver City Council as a representative of A.N.M.A. on subject Rents, Controls, on the Peace Drive, within the organization, Civil Rights.

Q I am sorry. I didn't get that—Peace Drive—what?

A Within the organization.

Q Hmn.

A Alone. In other words, civil rights within the organization, first-class citizenship within the organization, A.N.M.A. relief struggles within A.N.M.A., Gracia case. And there we had a big picket line that we were able to organize because the people listened, and we picketed the governor and just plain raised the devil around his house. The Matthew Martinez case in Greeley, Colorado. And the Progressive Party our responsibility there was to teach the people that the Democratic Party and the Republican Party were in reality one and the same instrument of the Bourgeoisie. Therefore, the Progressive Party was the only party that spoke for the people because it was the Progressive in the true sense of the word, Progressive. It was not based on the Bourgeois ideology. On deportation cases Martinez, in Chicago, labor leader, another—and other deportation cases, and also

in the Communist Party I was assigned to be—

Q I am sorry. What were you going to do about those deportation cases?

(tr. 1466) A To fight to stop deportations.

Q Right.

A And also within deportations, the Communist Party assigned me to learn all the angles in the revolutionary fashion to defend the Parties in the Court and they would see to it that I got the permission in the Court to do so. Under police brutalities, all the forms and kinds throughout the state, and the city, as well as nationally, in Denver, Colorado.

Q Excuse me. What were you going to do about police brutality, oppose it?

A To fight police brutality in the Communist Party.

Q Yes.

A Was the vehicle by which we could set the people against the local government.

Q Go ahead.

A In Denver, Colorado, on a police brutality case named Ray Martinez, the Communist Party group that I was in was able to sue the patrolman for forty-five thousand dollars and the organization was named the West Side Fair Play Committee. And the United States Senate hearing in Denver, Colorado, on the juvenile delinquency, was on that hearing we picked it up, and we proved the United States—

Q By "we" you mean the Communist Party, I take it?

A Literally; yes.

Q Go ahead.

(tr. 1467) A We picked up the issue in proving that a lot more had to be done than that. It was not the youth of America who were to blame. It was the entire capitalists

system that was rotten, and the Senate hearing did absolutely nothing, no good whatsoever. And, therefore, organizations of the peoples were the ones to do it, and within that we taught that the United States Senate was only an instrument of capitalism and did not serve the people.

On high prices an organization was created called the Guardian Angels, housewife, to fight, higher prices, as a vehicle to contact the people and teach them the desirability of changing the system. In so doing they could only be done by the Proletarian Revolution.

Housing, to clear the slums, to bring the Federal housing under a more minimum rent.

On discrimination—

Q You mean to keep it under minimum rent control?
A Yes, sir.

On discrimination, every angle under discrimination was used. For example, on the police brutalities activities, on deportation cases, and the ones I have named before, when minority groups were involved, we were to teach them that they were, they did not have a place in the capitalist society. There was no room for them in capitalism and they had to understand that. And they had to agree to help to over-
(tr. 1468) throw the Government. And in penetration of churches, we penetrated churches and developed the peace drive, peace in Korea, the penetration, of course, of assigned organizations by the Communist Party.

Q Suppose you just tell the jury what you mean by "penetration"?

A By penetration I mean the, those organizations that were Bourgeois in conception that they did work for the people but did not do any revolutionary work.

Q I mean—

A That would help the Proletarian—

MR. WOERHEIDE: Your Honor, I submit the witness is trying to answer the question and trying to do so—

MR. TAYLOR: I don't think he understood the question.

THE WITNESS: I most certainly do understand the question.

BY MR. TAYLOR:

Q I want to know what you mean by penetrating the churches. What do you mean by this was, this process—

A That's exactly what I am trying to explain, sir.

Q Go ahead.

A Well, penetration was the, those organizations that did not do revolutionary work, that would benefit the Pro-
(tr 1469) letarian Revolution. We had to actually penetrate, get inside of, get inside of them and develop revolutionary work that would actually help the Proletarian Revolution.

Does that answer your question?

Q You mean to get members into the organization?

A No, that would be absolutely a Bourgeois conception of penetration to get members inside. That would be a mechanical operation to get members inside. They would do the revolutionary's work, that is penetration in the Communist sense of the word.

Q You mean members of the Communist Party?

A Yes, sir.

Q Right. Go ahead.

A Penetration of the Democratic Party, and the realignment of the forces in there, and the final destruction of the Party. The elections of 1952, and there speak to Senators, speak to Congressmen, city council, whoever was running, offer them a certain amount of support if they would compromise their program with what we would be assigned to take to them.

On the Civil Rights Congress, Denver, Colorado, the picket lines on a U. S. Court in Denver during the Smith Act trials, and within that our biggest slogan there was calling the Federal judges a Fascist, and an S.O.B., and picket line against the U. S. Attorney General McGrath, (tr. 1470) and we had a very, very big picket line in the front of the schoolhouse. We blocked his entrance and he continued in there with the help of the local authorities. And afterwards, when he succeeded doing that, we went in and scattered throughout the people. And when he started talking, we started making noise and under instructions, we left, and some of the people with us. We actually went in and told the people, "Let's go." And in Congress, Party trials, to go in there and whenever any witness made a mistake or such, just make a good big laughter and turn the whole matter into a joking thing.

And that's some of the activities that I was able to enumerate to you. But I would say this, that they are very little compared to actually what we were doing.

Q You mean you could make a much longer list if you had time?

A If I had sufficient time I presume I could; yes.

Q Would you tell us what those notes were you were

reading from and where you got them?

A The notes that I read from here I prepared approximately fifteen, twenty minutes before I took the stand.

REDIRECT EXAMINATION OF DURAN

By Mr. Woerheide:

(tr. 1506). * * *

Q Mr. Duran, you were asked on cross-examination regarding your attendance in certain schools and you referred to a school held at Estes Park, Colorado. Do you recall the dates when that school was held?

A Yes, sir.

Q What were the approximate dates?

A The dates were in the, at the Estes Park School, was approximately September, 1952.

Q How long did this school last?

A Two weeks.

Q Who was in charge of the school?

A Art Berry and Anna Berry.

Q Who was Art Berry at that time?

A At that time he was District Organizer for the seven states that I named and National Chairman of the Mexican Commission, and according to his own admittance also an Underground, to the second string Underground Communist leaders.

Q Did the school that was held in Estes Park, Colorado have a name?

A Yes, sir.

Q What was it called?

(tr. 1507) A It was called Estes Park Communist Party School.

Q What was the level of that school? Was it a state level or a section level?

A It was on a state level.

Q Do you recall approximately how many students attended that school?

A Approximately, I don't. However, I could name the names of the individuals which may give you a definite figure.

Q Well, that is not necessary. Was it more than ten?

A Yes, sir.

Q Was it more than twenty?

A No, sir.

Q Somewhere between ten and twenty persons, then?

A Yes, sir.

Q Now the school that you attended at Evergreen, Colorado, can you give us the dates when that school was held?

A Yes, sir; but I think I made a mistake on the places. Estes Park, I got them mixed up in my mind a little bit. Estes Park was on, from June 16 to July 3rd, 1951, and the one at Evergreen, Colorado, was in September 1952.

Q Now I gather from your present recollection that the Estes Park School lasted for about two weeks; is that correct?

A Yes, sir.

(tr. 1508) Q How long did the Evergreen School last?

A Two weeks.

Q Who was in charge of the Evergreen School?

A The Evergreen School was Art Berry and Anna

Berry, and the Estes Park School was just Art Berry.

Q I see. Now was there any change in the positions and the responsibilities held by Art Berry in the Communist Party between June 16 and July 3rd, 1951, when the Estes Park School was held and September, 1952, when the Evergreen School was held?

A In the positions; no, sir, other than in '52 he was more active than the first school. In the first school he was more underground.

Q I see.

Now at the time of both of those schools did you, yourself, hold positions on a state level in the Party?

A Yes, sir; I did, both of them.

Q Were both of these schools schools for leaders on the state level in the Party?

A Not exclusively, no. It was the leaders plus selected cadre.

Q Do you recall approximately how many people attended the Evergreen School?

A Not specifically; no, sir.

Q Can you approximate the figure?

(tr. 1509) A I would approximate it at between ten and twenty.

Q Mr. Duran, in your testimony on cross-examination you did mention some of the teaching that you received at these two schools, and I ask you if you recall that during the course of this teaching there was used as an illustration a kettle of water?

A Yes, sir; I do recall it.

Q Do you recall at which school that illustration was used?

A Yes, sir; I do.

Q Which one was it?
A It was the Estes Park School at Estes Park, Colorado.

Q Was this teaching by Art Berry?
A Yes, sir; it was.

Q What did he say with respect to a kettle of water?
A In respect to the kettle of water, we were discussing the scientific application of Marx and Lenin to the transition period between capitalism and socialism, and he demonstrated this with the kettle of water, that you could put a quantitative amount of water in a kettle and set it somewhere, nothing would happen, just like the masses, nothing does happen.

Usually he used the example of a quantitative amount of water in relationship to the people, said, however, if (tr. 1510) you get that same amount, same kettle with the same amount of water in it, and put fire underneath it, then you begin to get quantitative changes, and eventually it reaches a nodule point to where it has a qualitative and abrupt transition into steam. He continued. same applied to the development of the revolution in this sense, the American people will not and cannot make a successful change over from capitalism to socialism by themselves, like the fire underneath the water, the Communist Party teaches and leads them to where when the society reaches that nodule point, the Communist people teaches the people before and then leads them to make that abrupt change into the society of socialism.

He explains there very thoroughly the laws of metaphysics and the laws of dialectical materialism, the Bourgeoisie, complained Art Berry, had the conception in metaphysics that quantitative changes alone would bring about

a qualitative change, and he uses the same theory that Kautsky was fighting Engels on and also the way Lenin defended Engels against Kautsky's theories of withering away the state.

He claimed that the law of metaphysics is an entirely, a Bourgeois conception of things, of a peaceful transition, and so on, told us that we were not based on the law of metaphysics. We were based on the law of materialism. (tr. 1511) dialectical materialism, which was the law of developing society, the way the present society was a midwife to the old society, impregnant with revolution; showed us that our role was that like the fire, to lead the masses after we had taught them the desirability of changing the system through the Proletarian Revolution, to lead them, and bring about abrupt change of capitalism into socialism.

In conclusion, to the best of my recollection, he again stressed to the class to learn the difference between the law of metaphysics and dialectical materialism and historical materialism which would give us the answer, and he stressed if we do get in difficulties to look into the books of theory.

Q Mr. Duran, do you recall that in one of these schools there was a reference by the instructor to a visit made by an American Communist woman to China during the violent revolution which took place in China?

A Yes, sir, I do.

Q At which school was this?

A At the Evergreen School at Evergreen, Colorado.

Q Who was the instructor who referred to this incident?

A Art Berry.

Q What did he tell you?

A He told us in relationship to answering the question (tr. 1512) that I put to him at the school, was it to be a peaceful transition or we to fight a Proletarian Revolution, and he answered by using a demonstration that a National Officer of the Communist Party U.S.A. had went twice to China. The first time she went there, to discuss theoretically and to aid the revolution, she had met with the revolutionaries, National Revolutionary Commission or Committee of the Communist people, and she came back there with certain decisions made.

He did not state what those decisions were. The second time when she went back, there was only one present of the former meeting she had had, and she asked for different comrades that she had met at the first meeting, and they told them that they had all made a mistake, was a wrong decision, and they were all dead because of that wrong decision, and Art Berry stated to us that is exactly how serious of decisions we Communists in the United States would have to make; we would have to learn to make the correct decisions in relation to our tactical leadership as well as strategical leadership.

Q At this school was there any reference to barricades, as you recall?

A Yes, sir.

Q What was that reference?

A Substantially, within the same explanation of violent (tr. 1513) overthrow of the Government or peaceful, he stated that not only would it be that, but that we would have to set up barricades, establish a central point from where we would participate from; he stated the "we"

literally speaking "we", would have to have a central point because during the revolution it may become necessary to ebb, retreat in certain battles, and we would have to learn to retreat in an organizational way and a correct way. It was essential to learn to ebb as it was to flow on the revolution.

In the ebbing we were to see that we ebb before the enemy wiped everybody out. Ebbing to the central point that had been barricaded, reorganization, and them at the correct time start flowing forward in the revolution.

* * *

TESTIMONY OF CHARLES BENSON CHILDS

DIRECT EXAMINATION

(tr. 1543) * * *

BY MR. GAVIN:

Q Your name is Charles Benson Childs?

A Yes, sir.

* * *

(tr. 1557) * * *

Q Uh-huh. Now you know the defendant, Junius Scales,
(tr. 1558) do you not?

A Yes, sir.

Q Can you identify him?

A Yes, sir. Scales is the gentleman in the second row there from the front, wearing the glasses.

Q Directly behind Mr. Smith?

A Yes, sir.

Q Now was there anything said out there at Scales'

home on that night, and that was December 17th, I believe, 1949; was there anything said relative to your joining the Communist Party?

A Well, as to my membership in the Communist Party, Robertson was the one who brought it up. He told Scales that I wanted to join the Communist Party. I believe he used the term them or Communist Party, and Scales said that that was fine.

And he talked with me a little about what I was doing, and Scales said that he'd have some people to work with me there in High Point. I think he said that the Party would soon organize, the Progressive Party in High Point.

* * *

(tr. 1560) * * *

(tr. 1560) Q Now did they have a Labor Youth meeting there that night?

A Yes, sir.

Q What is the Labor Youth? What is the Labor Youth League? Is that the name of the organization?

A Yes, sir.

Q What is that, Mr. Childs?

A It was explained to me by Friestadt, Gladys Scales and Junius Scales that the substance of these explanations were that the Labor Youth League is the youth arm of the Communist Party, and that it replaced the Young Communist League.

Q Well, now did you become active in the Labor Youth League?

A Yes, sir.

Q State whether or not you attended the first State Convention of that organization in 1950.

A I did attend the first State Convention of the Lab Youth League in 1950, in Durham.

Q Do you know whether or not that was about Augu 13th?

A It was in the summer, I recall.

(tr. 1561) Q Was Junius Scales present at that co vention?

A He was present, sir.

Q Who else was there?

A Among those persons, I don't recall all of the names, there was Gladys Scales, myself, several peopl from Winston-Salem. There was Nate Bond, there was— well, I think there were about twenty or thirty people.

Q Well, now who gave the address of welcome at tha convention, Mr. Childs?

A There were several speeches made, one by Nate Bond and one by Junius Scales, gave the speech of welcome, an he welcomed the Labor Youth League as his being th Chairman of the North and South Carolina Districts o the Communist Party.

Q State whether or not he said anything about th Communist Party and the Labor Youth League bein brothers and having the same goal or aims.

A He did say in the course of his speech that the Lab Youth League and the Communist Party were brother that they had the same aim which is the establishment socialism.

Q Do you know what his talk concerned, mainly?

A Mainly it concerned the peace campaigns, and Korean War, the possibility—he covered other things

Q Did he say anything about the Communist Pa

(tr. 1562) having allies in China and Russia and in the Eastern Europe countries?

A Well, when he spoke of the peace campaign, he mentioned that we had millions of allies in the, in Russia, in China, and he used the term "the Eastern Democracies".

Q Well, was there any discussion by the defendant on the suppression of speech in this country and, if so, what was that discussion?

A Well, he mentioned the Dennis case. I recall it being the Dennis case, that these people are being suppressed and denied their rights of free speech, and suggested that we send a telegram to Eugene Dennis, I think it was his, on his birthday.

Q When you said that he had discussed the Korean War, Mr. Childs, what did he say about the Korean War?

A He said that the Korean War was a method of suppressing the people in Korea and also the Negro people in the United States and all the workers in the United States.

* * *

(tr. 1563) * * *

(tr. 1563) Q Now did Nate Bond speak that night at the convention?

A Nate Bond also gave a speech; yes, sir.

Q What did he talk about?

A He talked about the, about the situation in North Carolina and the, he mentioned the Korean War, and that was the general theme of his speech.

Q Do you recall whether or not he talked about the Black Belt or the Negro Nation, Mr. Childs?

A Well, in his discussion about the Negro people, he

mentioned that in the Black Belt, mentioning a certain geographical location, that the Negro people in that area constitute a nation, and here he used Stalin's definition of a nation, and he said that under capitalism this nation does not have the rights to secede their independence, but under socialism it would.

Q Now, Junius Scales was present at this meeting, was he not?

A He was, sir.

Q Did his wife make a speech there on building up the Labor Youth League?

(tr. 1564) A She also made a speech; yes, sir.

Q How did she say that could be accomplished?

A Well, I recall that what we were to do would be to talk with young people, give them literature, and try to recruit them into membership in the Labor Youth League.

* * *

(tr. 1572) * * *

BY MR. GAVIN:

Q Mr. Childs, just before the recess I had asked you (tr. 1573) about your meeting with the defendant, Scales, in the late summer of 1950 in Winston-Salem when you again discussed your draft status and the probability that you would have to go into the Army. I believe you stated that you met with him in front of a church over there and discussed this; is that correct?

A Yes, sir. What happened was I saw him in the bus station in Winston-Salem, and he was using the telephone, and I waited until after he had finished using the telephone, and I went and saw him and we went into one exit there in the bus station and he told me that he was

going down in front of the church which is right near the bus station, and asked that I follow him in a few minutes to be sure that he was not being followed, and I did that, and went down there and told him that there was a prospect of my being drafted, and I discussed it with him.

He told me that I should try to fail the examination. He said that the way I could do that—well, before that he told me that if a third person was present, that he would not tell me what he was about to tell me because he could be tried for sedition and convicted, although in court he would deny ever having said these things.

What he told me was that I could, in failing the mental examination, I could tell them that I was tired, or that I didn't like the person giving the examination, and in that, (tr. 1574) generally those were specific things which I could do. I think there was another thing. And he told me that even if I were drafted, that I could still use what I had learned in the Army and possibly recruit people, but I'd have to be very careful because the Army had stool pigeons everywhere in the Army.

* * *

(tr. 1577) * * *

Q All right, sir. Now did you and the defendant, Scales, discuss at that time the Stockholm Peace Petition?

A Yes, sir.

At that time they were working on the Stockholm Peace Petition and I asked him if it would be correct or all right for us to make some distinguishing mark on the peace petition of those people we discussed, with whom we discussed the petition as we were trying to get them to sign it and he told us that, I recall my mention that maybe

we could put an "X" beside the name, and he said that that is what we must do, that we must go back and visit these people, and, because that is the only way we will be able to build ourselves.

Q Mr. Childs, do you know what the Daniels Defense Committee was?

A Yes, sir.

Q What was that?

A The Daniels Defense Committee was organized to try to defend the Negro young boys somewhere near the Coast, who were charged with murder.

(tr. 1578) Q Uh-huhm. Now did you have a discussion with the defendant, Scales, about the Daniels Defense Committee at this meeting in High Point on June the 26th, 1950?

A I discussed with Scales at this meeting the Daniels Defense Committee and he told me that the N.A.A.C.P. is trying to run the Daniels Defense Committee case because the N.A.A.C.P. wanted the Daniels case to be a pure court case, whereas, that should not be done.

What should be done is that these cases should be used to show the source and motives of the persecution.

* * *

(tr. 1580) * * *

Q Uh-huh. Now on or about the 26th of October, 1950, did you meet Hank Farash again in High Point?

A Yes, sir. It was exactly two weeks later that he called me again and asked me what was my decision, and I told him that I had decided to accept the invitation to

join the Communist Party, and he told me to meet him again at the Elwood Hotel, and I went there, and there I met Hank and from there we went to his automobile, where I met Eugene Feldman and Junius Scales.

Q Were you informed at that time as to what you would have to do to join the Party, Mr. Childs?

MR. SMITH: By whom?

BY MR. GAVIN:

Q The defendant, Scales, was present, was he not?
A The defendant was present; yes, sir.

Q All right. Were you informed by anyone about the necessary steps to take towards joining the Communist Party?

A I was supposed at that meeting to pay the initiation fee. I think that this was a fifty cent fee required to become a member.

Q Well, did you pay it?
(tr. 1581) A Yes, sir.

Q Did you pay it with your money?
A No, sir; I borrowed it from Junius Scales.

Q Now who else was present at that time?
A At that time Hank Farash, Eugene Feldman, Junius Scales and myself.

Q Well, were you assigned to a club in the Communist Party at that time?

A I was assigned to work in this club with Eugene Feldman, and Virginia White. * * *

Q Now who assigned you to this club, Mr. Childs?

A I was assigned to this club by Junius Childs?

Q Who was the Chairman of your club?

(tr. 1582) A The Chairman of our club was Eugene Feldman, as suggested by Junius Scales.

Q You did not have anything to do with the appointment of a Chairman?

A I had nothing at all to do with it; no, sir.

* * *

(tr. 1584)

BY MR. GAVIN:

Q Mr. Childs, were you assigned by the defendant, Scales, to work in the Labor Youth League?

A My assignment was to work in the Labor Youth League, try to recruit members, members for the Labor Youth League. Feldman's assignment was to work in his community, and Virginia White's assignment was to work with peace groups.

* * *

(tr. 1585) * * *

Q Do you know what office the defendant, Scales, was holding in the Party during that time?

A Yes, sir.

Q From your admission to membership until April of 1955?

A I know what office he held, sir, at the time I was invited to join the Party.

Q All right. What was that?

A He was Chairman of the North and South Carolina

Districts of the Communist Party of the United States.

Q Do you know what the duties of his office were?

A I understood that the duties of his office were to see that the Directors of the National Committee of the Communist Party, were, were reported to: he reported to (tr. 1586) the National Committee as to the activities of the Communist Party North Carolina, and to see that the directives of the National Committee were carried through.

Q Mr. Childs, did you ever meet one by the name of William Patterson?

A Yes, sir.

Q Where did you meet him?

A Well, the way this came about was that I received a telephone call in High Point from Hank Farash, who was in Winston-Salem. Hank Farash told me that he wanted me to come to Winston-Salem, that he had an important job he wanted me to do, and I went to Winston-Salem, and I met Hank Farash at the bus station there, that Hank Farash told me that William L. Patterson would be, the National Chairman of the Executive Committee of the Civil Rights Congress, was in town, and he wanted me to be his bodyguard or security man while he was in North Carolina.

Q Well, were you, or did you act as such while he was in North Carolina?

A From, yes, sir; I acted as his bodyguard from that night up to the time he left Friday morning.

MR. SMITH: Could I ask the date of this occasion, Mr. Gavin?

BY MR. GAVIN:

Q Do you have the date?
(tr. 1587) A I have the date; yes, sir.

Beginning at approximately 4:30 p.m. on Februar 20th, 1951, up to approximately 3:00 a.m. on the fo lowing Friday morning.

MR. SMITH: What date would that be?

THE WITNESS: Well, approximately 23rd of Feb ruary.

BY MR. GAVIN:

Q Where did you go with Patterson?
A Well, I went to the Patterson, to several places i Winston-Salem. One of those was the attorney's offic in Winston-Salem who was working on the Clyde Brow case there.

I also went with him to give a speech in a school ther in Winston-Salem. I went to give a speech in Chapel Hil I went with him to give a speech in a church in Winsto Salem, too.

Q Did you ever go with him to the home of the d fendant, Junius Scales?
A No, sir.

Q Was Scales with you at any of the times you w with Patterson?
A Yes, sir.

Q When was that?
A That was at a speech he gave on Thursday, Wedn

day night in Chapel Hill.

(tr. 1588) Q Who gave the speech?
A William L. Patterson.

Q What did he speak about, Mr. Childs?
A Well, his speech concerned the Korean War, and in this speech he pointed out that the Korean War was being used by the capitalists as a means of oppressing the Negro people.

He said that, he said that the capitalists are sending the Negroes to Korea to fight the Korean people who are trying to fight for their rights, the same as the Negro people are in the South.

He said at one point that the whole Government is run by criminals, every city, state and county official background can be traced and will be, can be shown to be a criminal.

He said that the people in the South, the Negro people in the South, want their rights, and what he said exactly was (referred to notes)—

MR. SMITH: While the witness is looking, Mr. Gavin, would you ask him where this speech took place?

MR. GAVIN: He said Chapel Hill.

MR. SMITH: But where?

MR. GAVIN: Just a moment. Go ahead and find it.

THE WITNESS: Here is one paragraph from his (tr. 1589) speech. In Korea there still—do you want me to use his exact words?

In Korea they are still called niggers. Niggers are courtmartialed for refusing to have their men slaugh-

tered. Lieutenant Gilbert is one example. They sa
that the nigger is yellow. Yellow, give the nigge
in North Carolina and Georgia rifles and tell them
fight for their rights. Yellow, man, you will s
fighting like you have never seen before.

And he goes on to discuss the fact that he does not wa
to go slow as far as getting democracy for the Negr
people in the South, that what he wants is the democrac
today. He does not want to wait for the tomorrow, sa
that tomorrow's democracy is all right for his childre
but he wants his today.

BY MR. GAVIN:

Q You say those are the exact words of William L
Patterson?

A They are the exact words of William L. Patterso
as I read them.

* * *

(tr. 1596) * * *

Q Now did you see Scales again in Winston-Sale
at the Hutchinson Soda Shop in July of 1952?

A Yes, sir. After a Communist Party Club meeti
one night, we, Junius Scales and I, had agreed to m
the next morning at the Hutchinson Soda Shop ne
Sears, Roebuck in Winston-Salem. There he showed
a copy of the, of an article which he was writing cal
something along the line of Male Supremacy and C
Work Among Women. This report he said was in
hands of the National Committee and that he wanted
to read it and look it over.

He also said that he wanted me to give some statistics concerning the employment of ladies in industry in Winston-Salem, if possible.

Q What did he say at that time about attending meet-
(tr. 1597) ings of the National Committee in New York?

A He also mentioned that he attended meetings of the National Committee in New York City, and he said that the National Committee had instructed him to relax security.

Q Now did he inquire of you at that time concerning your employment at Western Electric?

A We discussed the fact that I was still employed there and that either was at or later, a shop steward at Western Electric—

Q Did you show him any literature that you had found at Western Electric?

A Yes. The Western Electric Company has a policy of having a rack on which the employees can take books home. These books or pamphlets which the employees can keep. Now I had several of those with me.

One which I recall distinctly was the one Our Own Communists Can Cripple Us. I showed it to Scales and he looked it over and he said that we should keep a list of the authors of these books and shoot them some day.

Q What did he say to you at that time about the importance of your remaining in industrial employment, Mr. Childs?

A Well, he told me that I should remain in the industry, that I should stay at Western Electric, that I

should try to become a leader among the workers at Western Electric because in the next presidential election they (tr. 1598) expect a crisis, and if I could—I had mentioned that I was planning to return to school—and he said that if it was a little earlier or a little later, he could see my returning to school, but it would take at least six years for me to finish school, and by that time things would have come to a head and it's necessary for the Party to build a broad mass and gain the road of leadership among the broad mass.

Q Did he say anything to you about the Red Army liberating us?

A Well, in connection with his speaking with me, and remaining in the Western Electric Plant, he told me that in connection with this coming to a head, that he did not want, that we did not want the Red Army, we did not want the Red Army to have to liberate us, meaning by that, with my understanding, was that if the Communist Party does not have a broad mass able to lead a broad mass of the people in a revolution, then it is quite logical that these leaders of the revolution will be placed in the jail and then it will be necessary for the Russian Army or the Red Army to come to the United States to liberate these leaders.

Q What did he say about Bernard Friedland?

A In connection with this, he mentioned that Bernard Friedland had wanted, much wanted to become a doctor, that he had never given up the hope of becoming a doctor, (tr. 1599) and that he has put it off at the request of the Communist Party.

* * *

(tr. 1600) * * *

BY MR. GAVIN:

Q I want you to refresh your recollection from your reports relative to the defendant's statement on the Red Army and give us his exact words, please, sir.

A His exact words as I have them in quotation marks here is, "We don't want to have to wait on the Red Army to liberate us. The trade unions are the schools of revolution."

Q Well, now does he have any more statements in there, or do you have any more that were made by him that explains his statement?

A He said just before that, that Junius told Childs that if it was a little earlier or a little later he could see his returning to school. However, with things moving as fast as they are, it will be an economic crisis during the next presidential administration, at which time, "Things (tr. 1601) will come to a head." If it will take at least six years for Childs to complete his schooling, during this time he will need to have to get a firm foundation among the workers in his plant and all other peoples.

Q All right, sir.

Now what did the defendant say to you about having been employed by the City of Greensboro?

A He said that he at one time had been employed by the City of Greensboro and that he at that time made an approximate seventy-five dollars per month and gave about forty of that per month to the Party.

Q Did you discuss his ever attending a Communist Party School, Mr. Childs?

A Yes. He mentioned that he had attended a Com-

munist Party School in 1940.

Q Do you know where that was?

A I recall him mentioning it somewhere in the mountains.

THE COURT: 1940, did you say?

THE WITNESS: Yes.

BY MR. GAVIN:

Q Do you know who he had classes under at that school, Mr. Childs?

A I don't know who he had classes under at that school, but I do know that a person with whom, under whom he did have a class.

(tr. 1602) Q Who was that?

A That was George Siskind.

* * *

(tr. 1603) * * *

Q Was there any discussion at that time about a Party School to be held in the near future?

A Yes. He told me that the Party was planning to have a training school for outstanding cadres in the North Carolina area, district. He said in the Party School of this type that eight people, with less than eight people would not be enough, more than ten people would be too much.

Q Now, he stated—did you give us the date that the school was to be held, Mr. Childs?

A Well, he told me later that the date would, the school would be from about the 8th of August, or 9th of August

10th, 195- hrough August the 17th, which would be a Sunday, the following Sunday.

Q Where was the school to be held?
A He did not say at that time.

Q Well, now later on were you informed as to where the school would be?
A Yes, sir.

(tr. 1604) Q When was that that you were?
A Well, later, after a Party meeting he and I went to the Picadilly Restaurant, and he gave me, he discussed the School with me, and he had previously said that they had gone to an awful, they had gone to a lot of trouble to have the right teachers for this Party School, and he gave me a list of equipment and a list of books which I was to bring to the school with me.

* * *

BY MR. GAVIN:

Q I hand you what has been marked for identification as Government's Exhibit No. 113 and I will ask you to identify that for the Court and the jury.
A This is a list of equipment needed to bring, absolute minimum baggage, and included—this was written in my presence of Junius Scales.

Q Read it, please.
A One change of underwear and socks, one work shirt, long sleeves preferred, one pair rough washable long trousers, not shorts, one pair unfancy low-heeled shoes, no sandals or open toes, one durable raincoat, one hat or cap with wide brim optional, one bed sheet, one bath towel, one wash cloth, one cake of soap and soap dish, one flashlight, (tr. 1605) one copy history of the C.P.S.U.—that's cor-

rect—the Communist Party of the Soviet Union—one copy Ten Classics of Marxism, one knife, fork and spoon, toilet articles, notebook.

MR. GAVIN: We offer this as Government's Exhibit No. 113.

BY MR. GAVIN:

Q Now was there anything said to you about what address you could give out, or how you might receive mail?

A Well, he told me that the security measurements being taken at the school were that we were not to tell anyone where we were going, were were not to tell other Party members where we were going, we would not be permitted to use the telephone, it would not be any mail being sent or received, and no one would be permitted to leave the school before it was over.

Also at the school the people were to use assumed, false names because of protection of the people.

Q Now who was the director of that school, Mr. Childs?

A The director of the school was Junius Scales.

Q Do you know who was to be the teacher?

A I was not told at that time. I think at one time he said that an old friend of mine would teach something.

* * *

Q What was the purpose of the school?

A This school was a Party training school for outstanding cadres in the North and South Carolina and Virginia Districts of the Communist Party.

* * *

(tr. 1607) * * *

BY MR. GAVIN:

Q How many students were at this school, Mr. Childs?
A I'd estimate approximately at one time or the other there was about fifteen or sixteen people there.

Q Hmm-hmm. Do you know whether there was any labor leader from New York present?
A Yes, sir.

Q Who was that?
A He was Abe.

Q Abe, who?
A Well, he used the name Abe. I'd met him before in New York City.

Q Now who was he? What was his duty?
A Scales said that Abe was a representative of the Educational Committee of the National Committee of the Communist Party.

Q Now did the defendant, Scales, say anything to you about arranging a private meeting for you and Abe?
A He said that he would see if he could not arrange a (tr. 1608) meeting, a private meeting between Abe and myself to discuss my union activities at the Western Electric Plant.

Q What about a private meeting between you and Abe, Viola Brown?

A He also mentioned at that particular time in Winston-Salem, I was supposed to discuss with a Party member how to operate in the union at Western Electric, and he told me that the Party member with whom I could discuss those things was Viola Brown, and that these arrangements could be made through Warren Williams because Warren Williams had some connection with the Food, Tobacco and Agricultural Union there and it would be all right for him to call Viola Brown and make these arrangements.

Q Did you know where this school was to be held?

A No, sir.

Q When were you picked up by the defendant, or were you picked up by the defendant to be carried to the school?

A I was picked up to go to the school on an early on Saturday morning in Winston-Salem, and I was picked up near the Baptist Church there on, right close to Fourth Street, and from there I met Junius Scales, George Van Camp and Abe.

Q Well, now, was that on August the 10th, 1952, Mr. Childs?

A That was on August the 9th.

(tr. 1609) Q All right. Where did you go from there?

A From there we went up town where we got some groceries and then we went to the home of, or the farm of William Binkley.

Q Where is the farm of William Binkley?

A The farm of William Binkley is located at Walnut Cove, which is near Winston-Salem.

Q Well, now, Mr. Childs, did you use your name while you were up there?

A No, sir.

Q What name did you use?
A I used the name of Phil.

Q Why?
A I beg your pardon?

Q Why?
A Well, he, Scales, had told me that all Party members there would, or all members there would be given false names in order to protect their true identity.

Q Did Seales have a false name?
A Scales did not have a false name and he explained the reason for that was he was so well known it wouldn't do any good to have a false name anyway.

* * *

(tr. 1610) * * *

BY MR. GAVIN:

Q Mr. Childs, I think I had asked you what arrangements had been made to take care of the students up at the Binkley farm, how you were to sleep. If you will tell us that, please, sir.

A The arrangements for sleeping were that we placed two large pieces of cayvas out among the trees, and we were to sleep on army cots, and I understood that the expenses were being paid by the Communist Party.

Q How about food?
A Well, the food was being paid for by the Communist Party.

Q Now I want you to describe to the Court, please, and the jury, how your student body was broken down into

(tr. 1611) groups for instruction.

A The school was broken up into three groups, and each of these groups had an assigned group leader, and the school would operate on the basis of the school generally assembling in the morning and having an assignment. The assignment would include such things as some problems. Then it would break up into the groups. There the reading would take place, discussions and recommendations, and then these groups would reassemble and the whole school would have a discussion on the problems and the lesson, and the same thing would happen in the afternoon.

Q Now were you a leader in your group?

A Yes, sir; I was a leader of my group, which was composed of myself, George Van Camp, Viola Brown and Junius Scales.

Q Who appointed you as leader of that group?

A The group leaders were appointed by Junius Scales.

* * *

(tr. 1612) * * *

Q Now you started out on a Sunday, did you not?

A We arrived there on Saturday and school started on Sunday. Yes, sir.

Q Did you have a schedule for each day's work?

A Yes, sir, we had a schedule for each day.

Q Well, if you can tell us about your schedule and what you were to study there on Sunday, the organization for Sunday.

A Well, I made some notes at that school.

* * *

(tr. 1613) * * *

Q Well, now, if you can tell about it, without referring to your notes, go ahead and do so. If you cannot, and need to use your notes to refresh your recollection, you may refer to your notes and describe to us the work that you did on Sunday there at the school.

A The agenda for the school was first detail work which consisted of washing dishes and cleaning up, and then the program of sessions was theory study among the students, and then a formal study of the theory. Then the individual analyses of theory in relationship to his or her work and means of improving it.

A collective discussion of theory and work, and conclusion of discussion in the form of what is to be done in work.

The assignment for Sunday and Monday included these things: Ten Classics of Marx, page 20, 29; Lenin's Imperialism, 88 to 98; pages 203 to 204 Eaton's Political Economy, pages 167 to 170, History of the Communist Party of the Soviet Union, and then in connection with that day, we had this problem.

(tr. 1614) Now these problems were questions which were thought up which a typical worker might ask in a plant where we were working, and we were to be able to answer these questions on the basis of what we were taught at the school, and these questions were to try to explain to the worker and turn the question around, such as the answer would be beneficial to the Communist Party.

Their problem for this day is We have to stop communism, the main danger. We are fighting for freedom here, and abroad against aggressive Soviet imperialism—

Q How did you answer that, Mr. Childs?

A Well, first, take the first part of question, statement, We have to stop communism, the main danger. Well, we were to point out that the main danger is not communism, but the main danger is really capitalism in the United States.

Now the second part here is, We are fighting for freedom here and abroad. First of all, we are not fighting for freedom here because there is no freedom in this country, and as far as abroad, and an aggressive imperialism, we were to point out Soviet imperialism, we were to point out that it is not an aggressive imperialism. It is really the United States which is imperialistic.

Q You testified that you studied the History of the Communist Party of the Soviet Union?

A Yes, sir.

(tr. 1615) Q And particularly pages 167 to 170?

A Yes, sir.

Q Your Honor, at this time, I would like to read page 167 and just a portion of 168 of Government's Exhibit No. 19 which is the History of the Communist Party Soviet Union, and has been identified by the witness as being the identical book which was used by him up there at the school.

"Theory and tactics of the Bolshevik Party on the question of war, peace and revolution. The Bolsheviks were not mere Pacifists who side for peace and confine themselves to the propaganda of peace, as the majority of the left Social Democrats did. The Bolsheviks advocated an active resolutionary struggle for peace, to the point of overthrowing the rule of the bellicose Imperialist Bourgeoisie. The Bolsheviks

lined up the cause of peace with the cause of the victory of the Proletarian Revolution, holding that the surest way of ending the war and securing a just peace, and peace without annexations and indemnities was to overthrow the rule of the Imperialist Bourgeoisie. In opposition to the Mensheviks and Socialist Revolutionary renunciation of revolutions and their treacherous slogan of preserving civil peace in time (tr. 1616) of war, the Bolsheviks advanced the slogan of 'Converting the Imperialist War into a Civil War.'

"This slogan meant that the laboring people including the armed workers and peasants clad in soldier's uniform were to turn weapons against their own Bourgeoisie and overthrow the rule if they wanted to put an end to the war and to achieve a just peace. In opposition to the Mensheviks and Socialist Revolutionary policy of defending the Bourgeois fatherland, the Bolsheviks advanced the policy of 'The defeat of one's own government in the imperialist war.' This meant voting against war credits, forming illegal revolutionary organizations in the armed forces, supporting fraternization among the soldiers at the front, organizing revolutionary actions of the workers and peasants against the war and turning these actions into an uprising against one's own imperialist government.

"Bolsheviks maintained that the lesser evil for the people would be the military defeat of the Czarist Government in the imperialist war. For this would facilitate the victory of the people over Czardom and the success of the struggle of the working class for eman-

(tr. 1617) cipation from capitalist slavery and imperialist wars.

"Lenin held that the policy of working for the defeat of one's own imperialist government must be pursued not only by the revolutionaries but by the revolutionary party of the working class in all the belligerent countries. It was not to every kind of war that the Bolsheviks were opposed. They were only opposed to wars of conquest or imperialist wars. The Bolsheviks held that there are two kinds of war. A just war, wars that are not wars of conquest, but wars of liberation waged to defend the people from foreign attack, and from attempt to enslave them forever or to liberate the people from capitalist slavery, or lastly, to liberate colonies and dependent countries from the yoke of imperialism and, be, unjust wars, wars of conquest waged to conquer and enslave foreign countries and foreign nations, wars of the first kind the Bolsheviks supported. As to wars of the second kind the Bolsheviks maintain that a resolute struggle must be waged against them to the point of revolution and the overthrow of one's own imperialist government."

Now, Mr. Childs, if you will go to Tuesday—

Strike that, please. You stated that you studied different (tr. 1618) topics as outlined by you, from the Ten Classics of Marxism, Lenin's Imperialism and History of the C.P.S.U. After you studied and discussed these topics, did you reassemble in a body?

A We would reassemble and discuss the problem and the selections which we had read.

Q What did you take up on Tuesday?

A On Tuesday the assignments were Lenin's State and Revolution, pages 7 through 15, the first three sections of the first chapter.

I have listed here the alternates. The Nature of Capitalism, pages 80 through 87, Twilight of World Capitalism, pages 53 through 59. The fourth selection is Political Affairs, issued of the 1948 Convention, pages 778 through 785, second column. Ten Classics of Marxism, Foundations of Leninism, pages 47 through 51, and pages 57 through 60.

Q Now did you have certain problems for the readings under the Foundations of Leninism?

A We had in connection with these assignments four problems.

Q Do you have those in your reports? Do you list them?

A Yes, sir.

Q Give them to us, if you can, without referring to your reports, but if you need to refresh your recollection, you (tr. 1619) may do so.

A Well, from the notes which I took at this school the roblems are, first, this is one country indivisible with lib-rty and justice for all. We have freedom of speech, press, ssembly and worship, and we vote for the government of ur choice.

Q Now were you taught as to how you should explain at, how the Communist Party would attempt to explain at?

A Yes, sir. The answer which we were to give was that s, first of all, as to a country indivisible, we were to nt out to the workers that it really is not one country in-isible; we have class divisions. We have the workers l we have the plant owners. There is a distinct division,

even within these two divisions, there are more or less, even more subdivisions, such as, among the workers, you have the Negro and the whites; in the unions you have the A.F. of L., the C.I.O., and F.I.O. and the independent unions.

As far as liberty and justice for all, we were to point out that there is no such thing as equal justice for all because the courts are controlled by the United States Government, and to point out the contrast between the justice or sentences given to working class people compared, compare that with the rich people, and also to point out the treatment of the Communist Party leaders, the Negro people, the trade union leaders, the working people and the rich people.

(tr 1620) As far as the statement, "We have freedom of press," we were to point out that the capitalists own the press and that they naturally want freedom of the press because they already own the press, and we were to point out that the letters of the editors are selected by the press itself, and point out how the press treated the Progressive Party Convenion.

As far as freedom of assembly was concerned, we were to show that the public assemblance halls would not be rented to any Communists or peace council. In meeting freedom of worship, we were to point out that Jewish synagogues had been bombed and that Negro people cannot attend white churches.

And in discussing with the workers the fact, the statement that we vote for the government of our choice, we were to point out that the poll tax prevents a person having a free vote, and that the presidential nominees are decided or chosen in smoke-filled rooms.

Q Mr. Childs, why were you given these problems in the first place?

* * *

(tr. 1621) * * *

Q Mr. Childs, were these problems given to you at the school for study?

A Study. These problems were given to us at the school. The selection of the problems were based on the problems were given to us by the staff. They were the purpose of these problems, were to apply the theory which we were being taught to questions which would be asked, which might be asked us by workers in the plants.

Q Now were you given that theory there at the school by the staff?

A Yes, sir.

Q Who in particular, if you recall?

(tr. 1622) A Well, I recall that on my section was Junius Scales, in my group. There was Bob Handman and Viola Brown was also a member of the faculty and Abe.

Q All right, sir.

Now will you go to the second problem which was given to you at the school, Mr. Childs? Tell us what that problem was.

A The second problem was, if you Communists are so revolutionary and want to establish socialism, why do you hide behind the Bill of Rights and what you call Bourgeois Democracy?

BY MR. GAVIN:

Q What answer were you given at the school, Mr. Childs

to Problem No. 2?

MR. SMITH: May I ask by whom? That is the same question we had awhile ago.

THE WITNESS: Well, this is things which I have recorded here, is the suggestions, the collected suggestions of the school.

BY MR. GAVIN:

Q Now for the record again, what office did Junius Scales hold with that school?

(tr. 1623) A He was the Director of the school.

Q And who was on the staff, Mr. Childs, as teacher?

A It was my understanding that the staff was composed of Viola Brown, Junius Scales, Abe, and Bob Handman from Virginia.

Q Now I think you previously stated this, but I want to be correct—at the end of each day did your groups meet together and discuss these problems as you had discussed them in the individual groups?

A Yes, sir. The whole school discussed these problems.

Q And was Junius Scales present?

A He was present; yes, sir.

Q All right, sir.

Now will you tell us the answer that was given to you in the school to Problem No. 2?

A As to that answer, was to try to tell the workers that the Communists are trying to save the right in the Bill of Rights and that they're not hiding behind the Bill of Rights. They are standing in front of the Bill of Rights defending them. We are to explain that in reality the Communist

Party wants more rights for the people, and an end of exploitation and that we see that in reality in this country we have the people being denied the Bill of Rights through the lack of all FEPC, Taft-Hartley and the Smith Act, and the Party must struggle on every level.

(tr. 1624) Q Now, Mr. Childs, were you given a third problem for study at the school?

A Yes, sir.

Q What was that problem?

A This problem was, Is this country Fascist now? If Fascism developing in the United States, how, illustrate with several examples close to home.

Q Now do you know what answer was given to you by the staff of the school to that problem?

A I recall that this was not an exact discussion on that problem. I'd like to read that from my report, if I may.

Q All right, sir.

A In the general school there was not a discussion of Problem 3, but there was a discussion of Problem 3 I recalled in my group.

Q Junius Scales was in your group?

A Yes, sir.

Q All right, sir. Go ahead and give us what that discussion was.

A In answering that question we were to say that the, that the Party, I mean as far as Fascism in this country today goes, that we were to say that it's not Fascism now because if it was, then the Communist Party could not exist in the United States, but that the Communist Party can help avoid the establishment of Fascism in this country.

(tr. 1625) Q. Is that the total of your notes there on that problem?

A On that problem; yes, sir.

Q All right, sir.

What was the fourth problem given to you for your study at the school, Mr. Childs?

A The fourth problem was, why can't an American capitalist go to the U.S.S.R. and distribute a pamphlet attacking socialism?

Q Now what answer did you get to that problem?

A Well, we were to say to the workers and point out that the reason that a capitalist cannot go to the Soviet Union to distribute an anti-Soviet Union pamphlet, compare that to letting a mill owner go to a union meeting and distribute antiunion leaflets, and in these discussions with the workers we were to point out the contrast between worker's position under capitalism and the worker's position under the dictatorship of the Proletariat in the Soviet Union.

Q Well, what was the comparison made of working conditions in Russia and working conditions in this country, sir?

A It was said that—

MR. SMITH: May I ask again, by whom?

BY MR. GAVIN:

Q Was this in your group?

(tr. 1626) A I recall, sir, that this, this, the notes which I have here refer to the whole school assembly which is discussing now that problem on the distribution of pam-

phlets in Russia by capitalists.

Q Was Junius Scales present?

A Yes, sir.

Q All right, sir, go ahead.

A We were to point out the contrasts between the workers' position under capitalism with that of the dictatorship of the Proletariat as exists in the Soviet Union. We were to point out that the workers in the Soviet Union have more freedom, that they have complete control of their unions, and over all their positions much better than that under capitalism.

Q Now, Mr. Childs, if you will refer to your notes for Wednesday, state to us what you studied at that time.

To refresh your recollection I will ask you if you recall that date studying about the Negro nation?

A Yes, sir.

Q Now, go ahead and tell us what you did study on Wednesday.

A On Wednesday, among those things discussed was the Negro question. Now here we were given an assigned reading from Gus Hall, Marxism and Negro Liberation, pages 12 through 24; Pettis Perry, White Chauvinism and (tr. 1627) the Struggle For Peace, pages 8 through 17, and we were to have to discuss Negro white unity and fighting which cauvinism on a mass scale.

Q Was white chauvinism explained to you there at the school?

A Yes, sir.

Q As what, Mr. Childs?

A It was explained to me at the school that white chauvinism is the feeling of the white people, or a white person as being a feeling of, or manifestation of superiority be-

cause of the person's being white.

Q Well, what attitude were you taught that you sho take with respect to white chauvinism as a good Co munist?

A We were not supposed to have white chauvinism any way, or demonstrate it in any way, although inheren all white people do have white chauvinism and the Party constantly struggling to try to get white chauvinism of its members.

Q What were you taught at the school relative to Communist Party's definition of a nation?

A Well, the definition of a nation comes from Stali definition of a nation, in a report from the definition of a tion, first according to Stalin, a nation must have an h torically evolved stable community in applying this to Negro people in the Black Belt. It was pointed out th there are ten to eleven million, which is larger than (tr. 1628) population of Sweden or Norway. It has p marily an agrarian, such as, cotton and plantation econom a centralized, in twelve states, which constitute the Bla Belt. There are one thousand one hundred eighty counti with fifty to eighty per cent Negro people, of the populati being Negro people, and around those one thousand o hundred eighty counties there are two hundred counti with from thirty to fifty per cent of the population bei Negro, and around those one thousand one hundred eigh counties there are two hundred counties with from thirty fifty per cent of the population being Negro people.

The historical background is of slavery in the Black Be It has a language which is English. It has a territory whi

is the Black Belt. It has an economy which is agrarian, agriculture, one crop and of a plantation type.

Now as to the psychological make-up it has distinct interest and attitudes, has its distinct organizations, churches, and art.

Now as to the economy, you have a division of labor, city and county linked by commercialization, transportation, financial interest and class structure. It is exploited as a worker, as a Negro; the middle class is also exploited and oppressed.

It was said that we must unite, assist and speed up the movement within and without our country. It was shown (tr. 1629) that the relationship between the colonial, national liberation movement and the Negro people, pointed out that these should merge, because neither can win without the other. It was also discussed about the leading role of the Southern workers and there were some problems relating to the Negro question.

Q Now on Thursday did you have a discussion of the Communist Party?

A Yes, sir.

Q Was that discussion based on the History of the Communist Party of the Soviet Union?

A Yes, sir.

Q Go ahead, Mr. Childs, and tell us briefly what that discussion was.

A The discussion of the Communist Party of the Soviet Union was shown to be a historical achievement of the Party. It was a new type of Party in 1903. It strengthened its unity, it exposed and dispelled disruptive elements which set an example of courage. It developed Marxist theory. It won the masses. It defeated nations. It defeated invaders

from fourteen nations.

It made modern industrial and agricultural nations. defeated Fascist attack in the main single-handed and t day it is well on its way to building communism.

THE COURT: On its way to doing what?

THE WITNESS: To building communism.

* * *

(tr. 1630) * * *

BY MR. GAVIN:

Q Mr. Childs, you were discussing the history of th Party as taught at the school. If you will continue wit that, please, sir.

A In reference to our Party, the task is to Bolshevi our Party and point out our, some of our weaknesses an problems, such as, the Bourgeois background of Soviet members and that decision is based on convention and th Bourgeois thinking on democracy.

In connection with this, we were told not to forget tha we are the vanguard, meaning Roman van, coming from which means that the first attack of the army—among thos things were weaknesses, was not handling masses in struggle to get out of Korea when the Korean War firs started, letting veterans committees work fold up. We did not present a petition to the governor, members are mainly middle class, and we need those in industrial concentration We need better club composition, such as, having the same (tr. 1631) plants in industry, having people in the same plants in a club. If you don't have enough members in the same plant, perhaps all those in the same type industry such as, textiles or tobacco.

* * *

And we have a reading from Foundations of Leninism, pages 109 through 117, 119 through 124. The problem given (tr. 1632) in connection with this was what proposal can you make to your group which will serve to Bolshevize and strengthen our Party?

Q What were the answers as were given to you at the school to that problem?

A We had twenty answers or suggestions on how to Bolshevize our Party. These were bringing good and close attention to criticism and self-criticism. Second thing was opportunism does not gloss over opportunism, and the third one was apply in day-to-day all, to all aspects of our life the teachings of Marxism and Leninism.

The fourth thing was correct left sectarian errors. The fifth thing was over- and underestimating militant situation of workers. The sixth thing was acceptance of leader. of leadership. The seventh thing was recognition and appreciation of our role of the vanguard.

Eighth thing, organize to hit issues when they are hot. The ninth thing, real meaning of security. The tenth. strengthen our ties with working people. Eleven, theoretical study. Twelve, the Party first consideration always. Thirteen, we are not sacrificing, we are making a contribution.

Fourteen, fractionalism, failure to carry out the decision of the majority in the higher organizations of the Party. The fifteenth thing was more education, more educational functions are necessary. Sixteen, lack of understanding the main line or deviating from the main line of the (tr. 1633) Party. Seventeen, struggle. Eighteen. change the composition of our Party, heavy industry in textiles.

Nineteen, salf-study group, study to develop understanding between theory and practice. The twentieth thing is to grow.

Now that was about what we covered in trying to Bolshevize our Party.

Q Mr. Childs, you stated that you were told to apply theory of all aspects of day-to-day life.

A Yes, sir.

Q Can you explain that more fully as it was explained to you at the school?

A Well, it was explained to us that what this meant was in all our work, in all our contacts with every person that we met in our union, work in any church organization, we are to apply to these situations the Marxism-Leninist and Stalin teachings which we know of.

* * *

(tr. 1634) * * *

Q Mr. Childs, to go back a moment, you were stating before the recess about your discussion on Wednesday relating to a Negro nation. I want to ask you if you were given any practical problems for study in connection with that topic?

A Yes, we were given three problems in relation to the Negro question.

Q What was the first problem?

A The first problem was, What makes our approach to the Negro question different from that of liberals and Social Democrats; illustrate from experience close to us.

Q Now what answer were you given at the school to that problem?

A Well, the Social Democrats look upon the question of Negro rights as being purely a legislative problem, that the Negro like, that the Negroes can get their rights through the legislative procedures which we have in this country.

They also look upon the Negro question as being a minority problem, whereas the Communists do not take this approach. Their approach is that the Negro is not just a minority group, that in the Black Belt it constitutes a nation, and that the Communist Party does not consider that (tr. 1635) the rights of the Negroes can ever be achieved through the legislative actions, that the Negro nation in the South has the right to secede if it wishes, but the Communist Party takes the position that under the capitalism it can never have that right.

* * *

(tr. 1639) * * *

Q Well, now, on Friday you began a study of Strategy and Tactics, did you not, Mr. Childs?

A Yes, sir.

Q Will you describe that course to us?

A The course in Strategy and Tactics came from Foundations of Leninism, Chapter 7, and is reference page 88, 106. The Strategy and Tactics Chapter 7, Foundations of Leninism, The Stages of Revolution and Strategy are pointed out in the 1943, What is the Highest Stage of Trade Unionism in North Carolina, and also there was an article by Rockman, June, 1952, issue of Political Affairs, Task and Broad Flight For Peace.

* * *

BY MR. GAVIN:

Q I hand you Government's Exhibit No. 5, Foundations (tr. 1640) of Leninism by Joseph Stalin, and ask you if that was one of the books that you studied at the school? I direct your attention to pages 88 through 91 which you have just testified about as being entitled Strategy and Tactics. I ask you if that was the course that was taught to you there?

A This is part of the course which I took while at the school.

Q Will you state whether or not this is the identical book and the one which you received from the defendant?

A This is identical to the book which I used at the school.

Q All right, sir.

MR. GAVIN: If Your Honor please, I'd like to read relative to the three states from page 90 and 91 of that; it is Government's Exhibit No. 5, which the witness says is identical to the one that he had at the school.

> "First stage, 1903 to February, 1917. Objective: To overthrow the Czarism and completely wipe out the survivals of immediate evilism. The main force of the revolution: The Proletariat. Immediate reserves: The peasantry. Direction of the main blow: The isolation of the liberal-monarchy's Bourgeoisie, which was striving to win over the peasantry and liquidate the (tr. 1641) revolution by compromising the Czarism Plan for disposition of forces: Alliance of the working class with the peasantry.
>
> "The Proletariat must carry to completion the democratic revolution, by allying to itself the mass of the

peasantry in order to crush by force the resistance of the autocracy and to paralyze the instability of the Bourgeoisie.

"Second stage, March, 1917, to October, 1917. Objective: To overthrow imperialism in Russia and to withdraw from the imperialist war. The main force of the revolution: The Proletariat. Immediate reserves: The poor peasantry. The Proletariat of neighboring countries as probable reserves. The protracted war and the crisis of imperialism take the favorable factor. Direction of the main blow: Isolation of the Petty Bourgeoisie democracies (Kamenevs and Socialist-Revolutionaries), who were striving to win over the toiling masses of the peasantry and to terminate the revolution by compromising with imperialism. Plan for the disposition of forces: Alliance of the Proletariat with the poor peasantry.

"The Proletariat must accomplish the Socialist (tr. 1642) Revolution by allying to itself the mass of the semi-Proletarian elements of the population in order to crush by force the resistance of the Bourgeoisie and to paralyze its instability of the peasantry and the Petty Bourgeoisie.

"Third stage. Commenced after the October Revolution. Objective: To consolidate the dictatorship of the Proletariat in one country, using it as a basis for overthrow of imperialism in all countries. The revolution is spreading beyond the confines of one country: the period of world revolution has commenced. The main forces of the revolution: The dictatorship of the Proletariat in one country, the revolutionary movement of the Proletariat in all countries.

"Main reserves: The semi-Proletarian and small —peasant masses in the developed countries, the liberation movement in the colonies and dependent countries. Direction of the main blow: Isolation of the Petty Bourgeoisie democracies, isolation of the parties of the Second International which constitutes the main support of the policy of compromise with imperialism. Plan for the disposition of forces: Alliance of the Proletarian Revolution with the liberation movement (tr. 1643) in the colonies and the dependent countries.

"Strategy deals with the main forces of the revolution and their reserves. It changes with the passing of the revolution from one stage to another, but remains essentially unchanged throughout a given stage."

* * *

Q In that discussion was the position of the Communist Party outlined to you?

A It was explained to us that in the struggle for peace (tr. 1644) we were to show the connection between the struggle for Negro liberation and the central over-all issue of the struggle for peace. We were to fight against Wall Street which is trying to conquer and enslave other peoples, because at the same time the fight to liberate the already enslaved Negro nation—our duty is to have the Southern people to get organized, to give organized expression to their peace, their peace sentiments and, and create conditions for Negro liberation.

In this connection pointed out the relationship that England, English reaction, and the Ireland—some relation there—but what we were specifically studied that we could do in connection with this broad tactics of peace is always

have the initiative, placed in a newspaper, and have X mother, who asks that press be sent to their sons in Korea, and—well, what this reference is to contact a mother who had a son in Korea.

* * *

Q Well, now what were you to do if you contacted a mother who had a son in Korea, Mr. Childs?

A Well, try to get her to assist in getting a settlement.

* * *

(tr. 1645) * * *

Q Now did you mention something there about a strike?

MR. SMITH: If Your Honor please, could the record show that the witness has not been testifying but has been reading from these notes at the school?

THE COURT: Well, I do not know how much of it has been a direct reading and how much is simply reference to the notes for refreshment. Have you been reading verbatim or simply referring to the notes to refresh your recollection?

THE WITNESS: Well, I am trying to refresh my recollection because here in discussing this mother case, I just have here in my notes that X mother, ask mother that—who ask that parent of sons in Korea contact her. Well, I remember that what we were supposed to do was try to see this mother and talk to her, into doing this thing.

* * *

(tr. 1663) * * *

Q Mr. Childs, I want to direct your attention to Saturday morning now at the school, did you read James Jackson's article entitled The Theoretical Aspects of the People's Struggle in the South?

A Yes, sir; on Saturday, we discussed James Jackson's article from the August, 1950, Political Affairs, page 66, and Rockman article from June, 1952, publication. I do not have the exact publication—R-o-c-k-m-a-n—and also on Saturday—

Q Speak up just a little now, please.

A Also on Saturday, 3:30 p.m., we discussed Party building. That is—

Q Now who led the discussion on Party building?

A Bob Handman let the discussion on Party building.

Q And who did you say he was?

A He was the District Organizer for the State of Virginia, the Communist Party.

Q What did he say to you about Party building?

(tr. 1664) A In discussing the Party building, he started off by pointing out that the present era is an era of imperialism and as a result of this the world is divided into two camps. There is the Democratic camp which is led by the Soviet Union and the Eastern democracies and the anti-Democratic camps which is led by the capitalists of the United States.

The result of this division and era of imperialism is that the export of capital is necessary and, therefore, the capitalists seek to redivide the world. The result of this attempt to redivide the world is that the world is now ruled by force and Fascism.

Now also resulting is an uneven development in the world by capitalism, and the result of this is that the United States is headed towards another world war.

Now he wanted to know, he brought this question up,

How can this be stopped? This drive towards a world war by the capitalists of the United States. The final solution is to solve the economic crisis through the establishment of socialism. He said that the overthrow of the capitalists is necessary and this can be done only by broad mass coalition led by the Communist Party.

He explained to us that the tactics of the Communist Party is a broad coalition, the strategy is the overthrow of the capitalist government. The coalition which is the tactic to be used in the strategic overthrow of the capitalist (tr. 1665) government is to have a leadership by the Communist Party because only the Communist Party is armed with that theory, Marxism-Leninism, which is capable of overthrowing the capitalist government.

He said the role of the Party was the key and that there is no substitute for this role of the Communist Party. He told us that the Party must become a mass party, and then he spoke in relation, becoming a mass party, there was a mention of Winston-Salem.

There he mentioned the basic industrial workers and the result of a desire to have a broad coalition. He discussed the weaknesses in the Communist Party which has prevented it from having that broad coalition.

Q Before you discuss those weaknesses, Mr. Childs, will you tell us what was meant by a mass party, or how it was explained to you?

A Well, my understanding of what the Party meant by mass, a mass party, is that in this broad coalition, what the tactics of the Communist Party would be was that a person or several persons, were instructed to become members in organizations.

In the course of becoming members of these organizations, they would either become, develop themselves into role of leadership, or they would try to be in a position where they would influence the leaders of these organiza-
(tr. 1666) tions and at the proper time these people would be able to duly control these organizations either directly or indirectly.

Q Was there anything said about the Communist Party being a majority party, Mr. Childs?

A It was not said that the Communist Party has to be a majority party. The Communist Party in reality as in the case of Soviet Union was a minority party.

Q Now what weaknesses were pointed out in the Party?

A Well, these weaknesses were pointed out as having prevented the Communist Party from obtaining this mass coalition which is one of the tactics. Some of these things were lack of clarity of the vanguard role of the Communist Party.

What this means is that the Communist Party does not follow the workers in reality; it is supposed to lead the workers. The under-estimating the work—role of the working class. Now the role of the working class is very specific. and whereas the role of the Party is also very specific, and you must understand both of these, the role of the Communist Party is to lead the working masses to the overflow of the capitalist government.

He also mentioned that the Negro nation movement. also mentioned the cadres, and here he mentioned Stalin's quotation, national cadres determining everything, and also in reference to these mass organizations, one of the things that Communists are supposed to do is while in these
(tr. 1667) organizations try to find what people tend to

lean towards, the Communist Party policies, or what people might be able, what people they might influence to accept the Party's goals, and that is where they are supposed to recruit more members for the Communist Party.

Also mentioned that from the basic core we should recruit members.

Another thing he mentioned was the lack of industrial concentration, meaning by this that the Communist Party has a program of industrial concentration in which they try to get people, that is, people who are Communist Party members, into key shops or key industries which the Party has determined or designated to be industrial concentration industries or plants. This is so that the Communist Party members in a particular plant will be able to have a cell, or a Communist Party group in which they will be able to more effectively plan for such things as attempting to control the union in that particular plant.

In the national liberation movement he mentioned the slowness to recruit Negro people, their having a considerable loss of Negro people membership in the Communist Party, and one way of avoiding this, he recommended one way of keeping Negro people in the Party, is to promote them to roles of leadership.

Q. Now were you taught how those weaknesses could be changed, Mr. Childs?

(tr. 1668) A Yes, sir. He, in addition, he mentioned that the lack of attitude to develop our trade union cadre and youth, and here he mentioned that we must develop a distinguished or separate approach, or appeal to the youth of the country.

He also mentioned that there were too few schools and

classes and concrete assistance of the cadre in the industries.

When discussing how to reverse these weaknesses, he said that we must grasp more firmly the necessity of building our Party upon industrial concentration. He also mentioned in connection with this that we must have a new ideological struggle, we must have a relocation of our forces to key shops which is in complete agreement and following the program of the Communist Party of having industrial concentration, having people placed in key industries or plants which the Party is trying to infiltrate.

He mentioned the involvement of full membership in the plant and activation of industrial concentration program even if it is just planning, if they cannot actually go into a particular industry.

He also mentioned in overcoming these weaknesses that we should try to develop, pay more attention to the shop cadre and we should build industrial concentration and have a new check-up policy in the Communist Party, that is a (tr. 1669) check-up on the assignment of the Party.

Also he mentioned should have a recruiting plan for Communist Party members. What we should do is have from the District level on down a definite time program for recruiting members into the Communist Party from these organizations, or any other sources we might be able to recruit them.

Also in connection with this he mentioned that we should even actually estimate the number of Party, the number of Party members we expect to recruit by certain period, and if we fail to recruit this number of members, then we should be able to explain why we didn't and correct this mistake.

Develop that special approach to the youth and women, and again he mentioned the cadre policy that Stalin said that cadre deciding everything, and that we must fight on this principle and every member of the Communist Party should attend a Party school at least once a year.

Q By "he" do you mean Bob Handman?
A Yes, sir.

Q He was the leader of the discussion at that time?
A Yes, sir.

Q What did he tell you, Mr. Childs, about building a Party in the South?

A He said that in building the Party in the South, in recruiting members and knowing our members, we should become familiar with their background and struggles and (tr. 1670) character, their type, of this new recruit.

What he means by the struggles is that the Communist Party member is expected to participate in some activity which will indicate or might show that he is sincerely interested in participating in struggles, and these sometimes serve as a basis for becoming a Communist Party member.

* * *

Q Now who did you say that Abe was?

A Abe was the representative from the Educational Commission of the National Committee of the Communist Party.

Q Did you have a discussion with Abe and in the presence of the defendant, Scales, relative to your staying in school at that time?

A Yes, sir. What happened was that Scales arranged a private meeting between the staff of the school and myself;

the purpose of this meeting was to discuss my returning to college. I had expressed a desire earlier to return to college, and this was the meeting to discuss this between myself and the faculty of the school.

Now at this meeting they pointed out to me that the Party program was not returning to school, or college, but the Party program was industrial concentration and they explained to me the Party's position, that I should remain in industry because it was necessary for me to keep a contact with the broad masses of the people.

At that time I was working in a plant which had a union and they considered that extremely important because it (tr. 1671) was important to the Party's program.

Also in connection with this returning to school Abe said that if I would remain in my plant, and organize a club there, then they might send me to a National Party Training School for six months. Bob Handman from the State of Virginia told me that he lacked three months completing his master degree requirement when he was called upon by a woman to become a full-time functionary for the Communist Party, and he quit school, and although he only lacked three months in completing the requirement for his degree.

* * *

(tr. 1675) * * *

Q Now I hand you what has been marked Government's for identification, as Government's Exhibit No. 115 and ask you, please, to identify that document.

A This is the newspaper, For A Lasting Peace For A People's Democracy.

Q What is the date of it?

A The date is Friday, June the 20th, 1952. Bucharest

organ of the Information Bureau of the Communist and Workers Party.

Q Where did you get, or have you seen that before, Mr. Childs?

A. Yes, sir. This was given to the group leaders, a copy by Junius Scales, at the end of the Communist Party Training School at Walnut Cove.

Q Were you a group leader at that school?

A I was, sir.

Q Is that the copy that you received?

A This is the copy which I received at the school from Junius Scales.

* * *

(tr. 1677) * * *

Q Do you know whether or not this exhibit For A Lasting People and A People's Democracy, Exhibit No. 115, was used in preparing leaflets for study or distribution?

A I recall that we have used that newspaper for leaflets. We have used material from that newspaper. Yes, sir.

MR. SMITH: Talking about this particular exhibit?

MR. GAVIN: This particular exhibit.

MR. SMITH: I didn't understand the witness to say that.

THE WITNESS: I don't know al ut that particular exhibit.

(tr. 1678) THE COURT: Well, was it of the same edition or the same issue as this one?

THE WITNESS: I am sorry, sir. I would like to look

at that again.

MR. GAVIN: Let me hand it to him.

THE WITNESS: Well, I would say that we have published leaflets which contained information contained in this article about the Korean War, about this germ warfare, sir.

* * *

(tr. 1680) * * *

Q Now during the course of this school and in the presence of the defendant, did Bob Handman give any demonstrations?

A Yes, sir.

Q What was that, Mr. Childs?

A He demonstrated on jujitsu and also he demonstrated how to kill a person with a pencil.

Q Do you have a pencil with you?

A Yes, sir.

Q Can you describe to the Court and to the jury the demonstration that was given to you by Bob Handman in the presence of the defendant?

A Yes, sir.

Q Go ahead and do so.

A Well, what he showed us to do was to take our pencil, he said we might be able to use this on a picket line, said just take the pencil and place it simply in the palm of your (tr. 1681) hand so that the back will rest against the base of the thumb, and then we were to take it, and the person, and give a quick jab so that it would penetrate through here, and enter the heart, and then if we could not do that, we just take it and grab it at the base of the throat. (Demonstrated.)

Q Do you recall whether or not Scales had any comment to make about that?

A I don't recall him making any comment; no, sir.

MR. SMITH: Mr. Gavin, may I ask what day and what time this incident occurred?

MR. GAVIN: He said it was during the course of the school down—

Do you know what date that was, Mr. Childs?

THE WITNESS: I don't know what date, but I recall what time during the day; it was near noon and Scales was sitting practically in front of Handman when it took place.

* * *

(tr. 1692) * * *

Q Now, Mr. Childs, did you remain a Party member while you were at the University?

(tr. 1693) A I remained a Party member; yes, sir.

Q What were you told to do by the defendant or by others, instructors at Party Schools, in his presence?

MR. SMITH: When, Mr. Gavin?

BY MR. GAVIN:

Q At any time during your acquaintance with the defendant and association with him?

A With reference to what, sir?

Q What type of action did he advise you to take?

A Well, they were innumerable things that I was sup-

posed to do, in connection with my Communist Party membership, being that these things were assigned to me to do, being that I was a Communist Party member.

I recall that such things as, well, at one time I was told to get an apartment house in Winston-Salem so that I could, not—not an apartment house, just an apartment—so that I could store in there duplicating machines, mimeographing machines and literature for the Party in Winston-Salem.

MR. SMITH: May I ask when was he told that and by whom?

THE WITNESS: That was told to me by Hank Farash and Jerry Pearson in 1951.

MR. SMITH: Well, then I move to strike as not being responsive to Mr. Gavin's questions because I understood Mr. Gavin's question to be what was he told by the defend-
(tr. 1694) ant or by others in the defendant's presence.

THE COURT: What have you to say about that, Mr. Gavin?

MR. GAVIN: Was the defendant present at the time?

THE WITNESS: No, sir. I am sorry. I misunderstood your question.

BY MR. GAVIN:

Q Do you understand it now?
A Yes, sir.

Q All right, sir. Go ahead and answer my question, and I do not care to argue the objection or the motion to strike.
A At one time in Chapel Hill, I helped write a leaflet with Junius Scales on the Korean War.

* * *

(tr. 1697) * * *

Q. Mr. Childs, do you know what a colonizer is?

(tr. 1698) A Yes, sir.

Q What is it, please, sir?

A A colonizer is a person whom the Party sends into a particular area, an area in which the Party has a particular program it wants advanced.

This has been particularly used in connection with industrial concentration. The plan would be for a person to go into the area, get a job, if possible, in the industry in which they have an industrial concentration program, and develop into the community in the area in which they are sent.

Q Now, on July 24, 1952, what did the defendant: Scales, say to you about having a colonizer in the Winston-Salem area?

A Scales told me that he expected to have two colonizers soon in the Winston-Salem, in Winston-Salem.

* * *

REDIRECT EXAMINATION

(tr. 1762) * * *

Q Now, Mr. Smith was questioning you about this pencil demonstration that was given by Bob Handman at the Walnut Cove Party School?

A Yes, sir.

Q He inquired if that did not occur during a recreation period; is that correct?

A Yes, sir.

Q Well, did it occur during a recreation period?

A It did, sir.

Q Now will you state whether or not the recreation per-

iod was a regular scheduled activity at the Party School there and whether or not you were required to attend that (tr. 1763) recreation period and participate in it?

A The recreation period was explained to us to be a period in which we were to have group activities and all students were required to attend this recreation meetings.

Q Now were you and the other Party members at the Walnut Cove School given certain assignments?

A Yes, sir; we were.

Q What was the nature of these assignments, Mr. Childs?

A Those assignments related to the prospectives for the students there at the school; that is, what they were going supposed to do when they returned to, from—to the places from which they came.

Q Well, now later on when you had your reunion down in the picnic area at Duke University, was there a check-up made to determine whether or not these assignments had been carried out?

A Yes, sir; there was.

Q Was the defendant, Scales, there at that time?

A Yes, sir; I recall that, I think it was in reference to Betsy Tyree or later she married George Van Camp, that she had gone into industrial concentration following the directive of the Party School at Walnut Cove, and as a result of that Scales had been able to get two or three other people to go in the industry.

(tr. 1764) Q Now do you know whether that assignment had been given those two people at the Walnut Cove School?

A I recall, sir, that they were.

Q All right, sir.

Now, Mr. Childs, as a member of the Communist Party enrolled in that organization by the defendant, Scales, and receiving guidance and instructions from him, what activities did you take part in?

A May I use a note on that?

Q Yes, sir.

A I mean I have made—

MR. SMITH: If Your Honor please, I know this is the same question Mr. Gavin asked him this morning, and I don't know that anything came out during the cross-examination which would justify his going back over the same ground.

THE COURT: Is it repetition, Mr. Gavin?

MR. GAVIN: No, sir. I don't think so. I think the same question was asked on cross-examination by Mr. Smith and when the witness started to answer, Mr. Smith said, Was Mr. Scales there at the time? And he cut him off. That is what I objected to at that time, if Your Honor please.

THE COURT: All right.

(tr. 1765) MR. SMITH: Your Honor, my recollection is I asked him about some discussion at a meeting but I do recall specifically that Mr. Gavin asked him what his activities were during the entire period, and he gave some answer, I think; and this is exactly the same question. He has prepared some notes on it during the lunch—

MR. GAVIN: This is a question, if Your Honor please, that—

THE COURT: I will let it in.

MR. GAVIN: All right, sir.

THE WITNESS: This list was prepared, I prepared yesterday, sir, among the things which I had been instructed to do was by Hank Farash, I was told not to go in a Negro community because I'd been going to the Negro community as I had been previously instructed to do. He told me not to go in a Negro community because he did not want me to be exposed.

Also he told me not to call the Food, Tobacco and Agricultural Union Office there because again I might be exposed as being a Communist Party member.

Another thing was in connection with the printing—

tr. 1766) MR. SMITH: Mr. Gavin, are these things that the defendant instructed him to do? If not, I would object.

MR. GAVIN: Does Your Honor want to hear from me on that?

THE COURT: Yes.

MR. GAVIN: Your Honor, this is the question that has been asked before, I think of all Government witnesses. What activities did you take part in while you were in the Party. I recall that Mr. Taylor asked that question of Lautner. He asked that of Mrs. Hartle I know. She gave a long list of the activities that she was engaged in. I think under the Yates case, why, we are called upon to show activity. The question was phrased, I think, so that he might describe his activities as a member of the Party in which he was enrolled by the defendant, and receiving guidance from the defendant and instructions from him.

Now it is—

THE COURT: Under the directions of someone in the Party having authority to direct; is that your position?

MR. GAVIN: Yes, sir.

THE COURT: And as I understand it, the witness (tr. 1767) said these activities that he now is enumerating—

MR. GAVIN: Yes, sir.

THE COURT: —were pursued under the instruction and/or under the direction of Farash.

MR. GAVIN: That is correct.

THE COURT: Who was the organizer?

MR. GAVIN: Yes, sir.

THE COURT: I think that is admissible.

MR. GAVIN: And the defendant was the Chairman at that time.

BY MR. GAVIN:

Q All right, sir, go ahead.

A Warren Williams, who was with the City Committee of the Communist Party in Winston-Salem, told me to get the ingredients to make some mimeographing because Underground Party has to be able to make all types of things for itself. I was instructed to get the number of persons employed on day and night shifts at the Western Electric Plant.

It was suggested or discussed that I make plans for a collapsible mimeograph machine. It was told, I was told to

send letters to Senators, or a Senator and the President calling for leniency for the Rosenbergs, and in connection with these letters I was to use a false name. I should try to get the editor of a newspaper to ask for a visa to Russia.

I was to try to get students legislature to pass an anti-
(tr. 1768) McCarthy resolution. Contacted in Durham, told me to make an analyses of the Irwin Mills stockholders report for the Textile Workers Voice—I was also instructed to do research and write about the Wilmington riot.

I was told to get, by Hank, to get him a copy of our union contract. I was told not to sign a Clayde Brown petition. I was told to join a church where some people in my shop belonged in order to become closely associated with the people in the plant. I was told to struggle for Negro employment in Western Electric because they had to build a fire under some union representatives in that plant.

I was told to go to Camp Unity to meet more Progressives there. I was told to get an apartment to store literature and mimeograph machines for the Party in Winston-Salem. I was told to participate in the Martinsville Seven Vigil in Richmond. I attended the Washington Peace Crusade meeting in Washington.

I helped write and distribute leaflets in High Point, Winston-Salem and Durham and Chapel Hill. I helped organize. I worked with the union in Winston-Salem, the FTA union, and I helped write and publish the students Youth Bulletin, and there's many other things which I was told to do, sir.

Q You stated that you were instructed to write your Senators and Congressmen, I believe. There may have been others, I don't recall it. I wish you would state it, if so,
(tr. 1769) but you were to seek for, seek leniency for the

Rosenbergs. Now who were the Rosenbergs?

A The Rosenbergs were convicted for, I understand, giving atomic bomb secrets to the Russian Government. It was explained to me at this particular activity, that is, write letters, trying to get leniency for the Rosenbergs; we were told that we do not necessarily want the Rosenbergs freed, we just want them commuted to a life sentence, because some day we will be able to free them.

Q You know where you were told that, Mr. Childs?

A Yes, sir; I was told that at a Party meeting with Warren Williams who was on the City Committee in Winston-Salem.

Q Now what about, you mentioned some mimeograph activity or mimeograph machines. What security measures were you advised to take in regard to your mimeographing?

A Well, I recall on one leaflet which we, I went from Durham, or Chapel Hill, to Winston-Salem that—pardon me—what happened was I went to Winston-Salem with it to see if this leaflet could be printed there or mimeographed there because we did not have the facilities in Chapel Hill at that time, and when Warren Williams and I took, I recall, two mimeograph machines, one which would not work and one which worked fairly well, to Carl Korstadt's house on the High Point Highway, the Greensboro-High Point Highway, and there we put blankets up over the windows so (tr. 1770) people could not look in, and see what we were doing, and Warren used, wore white gloves, I believe—I wore some gloves, too, while we were mimeographing this thing.

He always mentioned that things had gotten so hot one time that they had buried a mimeograph machine, and they dug it up and took it to Raleigh where they had it cleaned up

and they told the place there that it was a church machine.

MR. SMITH: Mr. Gavin, will you ask the witness if the defendant was present?

MR. GAVIN: Was the defendant present at that time?

THE WITNESS: No, sir.

BY MR. GAVIN:

Q Now what precautions did you take, if any, to insure the use of a mimeograph machine and equipment in the future in the event of a crisis?

A Well, I recall that that came up in connection with getting the ingredients for this mimeographing. It was mentioned that one person had a flat-bed mimeograph machine which they could use which is easily transported and did not make any noise.

Q During this time that you have, that you were talking about the mimeograph activities, and of the other activities (tr. 1771) in which you are engaged, or were engaged, was the defendant, Scales, the Chairman of the Communist Party in North Carolina?

A It is my understanding he was the Chairman; yes, sir.

* * *

[fol. 443]

IN UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

GREENSBORO DIVISION

Criminal No. 4320-G

UNITED STATES OF AMERICA,

vs.

JUNIUS IRVING SCALES, Defendant.

Before United States District Judge Hon. Albert V. Bryan, And a Jury.

Transcript of Hearing—February 11 and 12, 1958

WILLIAM GARFIELD CUMMINGS was called as a witness by counsel on behalf of the Government and, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Gavin:

Q. Your name is William Garfield Cummings?
A. That is right.
Q. Where are you from?
A. I am from Toledo, Ohio.
Q. Where did you live prior to going to Toledo, Ohio?
A. Florence County, South Carolina.
Q. Now, Mr. Cummings, on or about December 8, 1949, did you have occasion to attend the Communist Party Midwest Regional School in Chicago?
A. I did.
Q. Did I ask you about December the 8th, 1945? Was that your answer?
[fol. 444] A. I did.
Q. Now, where was that school held?

A. It was held on Dennison Street, in Chicago, Illinois, over a Russian Co-op Restaurant.

Q. Were you a member of the Communist Party at that time?

A. I was.

Q. Did you join the Communist Party at the request of any governmental agency?

A. I did.

Q. What agency?

A. The Federal Bureau of Investigation.

Q. Now during the time you were enrolled in that school, did you make reports?

A. I did.

Q. To the, to what agency?

A. To the Federal Bureau of Investigation.

Q. Did those reports cover the activities at that school?

A. They did.

Q. Now would it help you in your testimony if you had those reports available before you to refresh your recollection?

A. It would.

Mr. Gavin: Your Honor, I will ask the Clerk to mark [fol. 445] these for identification. There are several of them. It will be No. 40-A, B, C, D, and if you will.

The Clerk: 40 and then 40-A.

Mr. Gavin: Wait. I want you to take them in the order that I have them.

The Clerk: Oh, pardon.

Mr. Gavin: Have them. There will be 40 and this will be 40-A.

(The Clerk so marked the reports to the F.B.I. as Government's Exhibits Nos. 40, 40-A, 40-B, 40-C, 40-D, 40-E, 40-F, 40-G and 40-H for identification.)

By Mr. Gavin:

Q. Now I hand you what has been marked for identification as Government's Exhibit 40-A, through 40-H, and ask you what that is.

A. These are the reports that I submitted to the Federal

Bureau of Investigation from the Chicago Training School in Midwest Training School, in Chicago in 1945.

Q. Now is that the original report, or is that a photostatic copy of the report?

A. This is a photostatic copy or facsimile.

Q. Do you recognize the handwriting there?

A. I do.

Q. Whose is it?

[fol. 446] A. It is mine.

Q. All right.

Mr. Cummings, how many students were in attendance at that school?

A. There was thirty-one students in attendance at that school.

Q. Will you tell the Court, please, something about the organization of the school?

A. Well, the school was organized by Mrs. Caroline Drews. The thirty-one students was broken down into three classes of eight, and one of seven. D-r-e-w-s.

Q. Now were you a member of one of those groups?

A. Yes, sir; I was.

Q. Who was the leader of that group?

A. The leader of the group that I was a member of was Gabe Kish.

Q. Do you know him?

A. I know Mr. Gabe Kish.

Q. What did he have to do with the Party, if you know?

A. Well, he was a member of the Communist Party in Pennsylvania, and he lived, he was a former coal miner and he lived in Pittsburgh, Pennsylvania, and he was on the Executive Committee of the Communist Party of the State of Pennsylvania. G-a-b-e, K-i-s-h.

Q. Now, would you tell us something about the organi-[fol. 447]-zation of your study courses, that is, the hours that you held classes?

A. Well, we was instructed by Miss Caroline Drews that we must be at class at nine o'clock in the morning, and there would be study in the groups from nine until noon, and at noon we'd have an hour's recess for lunch, and a walk, and then at one o'clock we would return to class, and we would

study from one until three, and from three until three-fifteen there would be a recess, and then there would be discussion from three-fifteen until six or seven o'clock in the afternoon or evening.

Q. Now what were some of the courses that were taught there at that school, the courses in which you were enrolled?

A. Well, the courses that I was enrolled in was No. 1, the Role of the Communist Party, Revisionism, Fight for Peace in Democracy, Fight for Jobs and Security, the Role of U.S.S.R. and Socialism, and the Role of the U.S.S.R. and the Negro Question.

Q. And who was the principal instructor?

A. The principal instructor of these classes was Mr. George Siskind.

Q. Now, if you will use your report, refresh your recollection, tell us what you were taught.

Mr. Smith: If Your Honor please, if the witness, Mr. Gavin, if the witness can possibly recall without using the [fol. 448] notes, I believe in line with Your Honor's suggestion regarding them, Mrs. Hartle, that she should do so if feasible, and now to recall, and has to use his recollection, that is another matter.

The Court: That is true. Let him refer to the notes only if it becomes necessary. If you feel that there is any necessity to assist your recollection by referring to the notes, you may do so, but unless you are required to make the reference, testify independently of the notes.

The Witness: Well, I feel that it will be necessary for me to make the references.

The Court: All right.

By Mr. Gavin:

Q. Now tell us what George Siskind taught you relating to the Role of the Communist Party in the United States.

Mr. Smith: If the Court please, would the record show that the witness is referring to his notes after saying that it would be necessary for him to do so in order to testify.

The Court: He said it would be necessary.

Mr. Smith: And would the record show that he is now using the notes after making such a statement.

[fol. 449] The Court: That he has them in his hand.

Mr. Smith: Yes.

The Witness: Mr. Siskind said that lecture, said that we, in his lecture, that we owe a debt to the working class and to pay this debt to the working class of America we must have a very strong Communist Party, and to this Communist Party must be the vanguard leadership of the working class of America. He also said that the working class should be made to understand that they are not a part of the duPonts, Fords or the Morgans, and said how can we do this. He said that we must have a strong, stable organization, Communist Organization in America to defeat the capitalist class.

He also said that it was a lot of elements that crept into the Communist Party during the revisionist period and he said that we must get rid of the stooges of the police force, the Federal Bureau of Investigation, Rankin's Committee, and all other forces that was against the Communist Organization, the working class.

By Mr. Gavin:

Q. State whether or not he told you what would have to be done with the capitalist system before this role could be [fol. 450] assumed.

A. He said before this role could be assumed that the capitalist system must be overthrown and he also said the only way that the capitalist system could be overthrown was by force and violence.

Q. Now did he compare, if he did, I wish you would say so first yes or no, did he compare the role of the Communist Party or the situation—strike that, please.

Did he compare the role of the Party in America today with the situation in Russia during the time of Lenin?

A. He did. He said in America today the Communist Party must work with the most militant workers in the shop, that they must be taught class consciousness, just as Lenin worked with the militant workers in Russia, and said that they must be taught that they cannot have peace

with the working class without a revolution and he said Lenin also taught the workers in Russia that it was necessary at times to throw bombs in the machinery and other things like that, and he said the American workers must be taught the same thing.

Q. Well, now, what did he say, if anything, regarding the time that this would take place?

A. Well, he didn't say what time that this would take place.

Q. All right. Now what about your class on Revisionism? Did George Siskind teach that?

[fol. 451] A. He did.

Q. Tell us what, if anything, he said about capitalism and socialism existing together.

A. Mr. Siskind said that Earl Browder wanted no part of revolution or revolutionary organization, he said that he compared Browder with Skuski; he said that he, that they both wanted socialism but they wanted no, did not want to have a revolutionary party in America, and he also said that the school, just a moment—the reason to organize this class was the Duclos article, the Political Affairs, the amendment to the resolutions, July Political Affairs, William Z. Foster's speech, Duclos article, September, Johnnie Williamson September Political Affairs, and the Frenchman, author, August Political Affairs.

Q. Well, was anything said in that class by George Siskind about full-time employment in the United States?

A. Mr. Siskind said that the capitalist class did not want full-time employment in America, said they only want to exploit the working class to get everything that they could out of the working class, and said the working class must be taught this and they must also be taught class consciousness in regard to the American capitalist class.

Q. Now who taught the course on Fight for Peace in Democracy?

A. Mr. Siskind taught the course on Fight for Peace in [fol. 452] Democracy.

Q. What did he say to you in that course about the stage at which this country had arrived?

A. Mr. Siskind said that America, said the last stage

of capitalism is imperialism, and he said America and Great Britain had arrived at that stage, that they were both imperialist countries.

Q. Well, go ahead. What else did he say about it?

A. He said because of the uneven development of capitalism, that Germany had threatened the world markets. He said that America and Great Britain was afraid to do, had to do something, was forced to do something about this, so they had to start, a war and redivide the world markets.

Q. Did he give you any solution for the uneven development of capitalism?

A. He said that the only solution to, for the uneven development of capitalism was the overthrow of the capitalist governments, and he said that the only way the capitalist government would be overthrown was by force and violence.

Q. What, if anything, did he say to you about the role of the Communist Party, Party in that endeavor?

A. He said that Great Britain and America had made concession after concession at Munich and other places, so Germany felt that they were strong enough to enslave the world, said we have already said that the last stage of [fol. 453] capitalism is imperialism, the next stage is Fascism, so we can see that the Americans had reached the last stages before the war, before Germany had a Fascist dictatorship; they had to have some place and people to start with, so it just was the minority group they started with, and we all know what happened, terror, terror, to the middle class.

At that time was forced out of the idea that they could be a part of big capitalists, and became the watchdog for them, the German Gestapo, police, and S.S. elite guard.

Q. What were you taught relative to the role of the Communist Party in organizing minority groups?

A. He said that, Mr. Siskind said that the Communist Party must organize the Negro people and the Jewish people and other minority groups to fight against the capitalist class, and he said it must be taught to them and hardened into their minds that they would not have socialism unless they fight for it.

Q. Now you stated that you had a course on the Fig for Jobs and Security. Who taught that course?

A. Mr. Siskind taught that course.

Q. Did he make any comparison with this country a Mexico in that?

A. He did.

Q. Go ahead and tell us what that comparison was.

A. He said in Mexico that the standard of living w [fol. 454] very low, and he said that in America if t working class didn't wake up and the Communist Par didn't give correct leadership to them, that the standa of living in America could be just as low as it was Mexico.

Q. Well, now what did he say that you could do to pr vent that?

A. Well, he said that the workers must be taught tha the only way that they could have peace was by overthro of the capitalist class, the American Government.

Q. Did he say anything to you or teach you anythin regarding your attitude towards the capitalist class?

A. He said that we must, we must, and we must teac the working class that they must hate the capitalist clas that they must fight the capitalist class, never a compromis and he also said that they fought in Russia, he said, at on time, said there was the blood ran in the streets in Russi and said before we would have peace with the capitali class in America, the blood would run in the streets i America.

Q. Now were you taught in that class by George Siskin as to how the capitalist class could be overthrown or woul be overthrown?

A. Said the capitalist class must be overthrown by forc and violence.

Q. State whether or not you were told about how man families control or rule America and what you were taugh [fol. 455] along that line.

A. Mr. Siskind said approximately sixty families con trolled eighty-five per cent of the national wealth o America.

Q. Now you also had a class on Socialism and the Rol of the U.S.S.R. Did George Siskind teach that course?

A. He did.

Q. Tell us what was taught in that course.

A. Mr. Siskind said that the U.S.S.R. in the last war, as we have already stated, led the fight and represented the democratic forces of the world. Said the workers of Europe knew that the Soviet society know that Soviet society are the only society that will solve the problem of the world today, that we have in some of the Balkan nations what we call equilibrium government, not capitalist, not Socialist government; we would have Socialist government in these countries, but America and Great Britain are playing power politics and forcing a partial capitalist government, the Socialists are fighting with aid of the Russian, with the aid of Russia to gain the upper hand and will emerge victorious in the near future, and Mr. Siskind also said that, I want to tell you this confidential, every one of the leaders in the Chinese Red Army were taught in the Soviet Union and today are being guided by the Soviet military heads.

Q. Now you also had a class on The Negro Question. [fol. 456] Who taught that class?

A. Mr. Siskind taught that class.

Q. Now state what he told you or taught you relative to the Negro question in the South.

A. George Siskind said that the Negro people in the Black Belt of the South will have to determine whether they want self-determination and a republic; says we are not in the position to say at this time, at this time, the National Committee of, have some work to do on this question.

During the revisionist period we gave up the struggle in, for the Negro people. We also gave up the Party work in the South, where the most of the Negro people are located. We must build the Party in the South and fight for what the Negro people want.

Q. Well, did he say anything to you about a Black Belt being established, or whether the Negroes would live in the South, or have to move out?

A. He further stated that we know the land are the most important thing in the South. We assume that the Negro in the Black Belt wants the land which they live on. The

land which they have sweated blood and toiled for, the big landlords, for the big landlords—we also know that we must fight the Negro people to have the right to vote, before we can hope to teach them how to vote, and who to vote for.

Q. I hand you what has been introduced in evidence as [fol. 457] Government's Exhibit 34-II. Do you know who that is?

A. That is Mr. George Siskind, the instructor of the Midwest Training School at Chicago, Illinois, in 1945.

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[fol. 458]

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WILLIAM GARFIELD CUMMINGS: was recalled as a witness by counsel on behalf of the Government and, having been previously duly sworn, was examined and testified as follows:

Recross examination.

By Mr. Smith:

Q. Mr. Cummings, I believe that during the time that you have been out of the courtroom, you were going to examine these reports that you made to see if you could find the words force and violence in there.

[fol. 459] A. That is right.

Q. Have you done so?

A. I have examined them.

Q. Can you point to the words force and violence?

A. I can't point to the words force and violence, but I have something here I'd like to read.

Q. Well, you cannot find the words force and violence?

A. Force and violence is not in the report, but it was certainly used constantly at the school by Mr. Siskind.

Q. And, yes, you said it was necessary, though, to use these reports in order for you to recall what was said?

A. That is right. That is right.

Q. All right. Now if in the course of your discussions with the attorneys for the Government, in preparing to

testify, was it, were the words force and violence used in discussions with you before you took the stand?

A. I don't quite follow your question.

Q. Well—

A. By whom do you mean?

Q. Either—well, by either of the Government attorneys that talked with you.

A. Not by the Government attorneys because they didn't attend that school. I did.

Q. But they talked with you before you testified yesterday?

[fol. 460] A. That's right. They talked with me.

Q. Do you say that during the entire discussion with you before you took the stand, that they never used the words force and violence?

A. They never talked in regards to force and violence. They asked me what I was taught at the school. They were not at the school. I was the one attended the school.

Q. Did they never ask you whether or not the words force and violence were used in the school?

A. I wouldn't recall them using it.

Q. You don't recall?

A. I can't recall them asking me that.

Q. That is all I want to ask the witness.

Mr. Gavin: Your Honor, I would just like to ask him just one or two questions.

By Mr. Gavin:

Q. You started to reading something from that report in explanation of Mr. Smith's question. I would like for you to go ahead with that.

Mr. Smith: Is it anything that you did not testify about yesterday?

The Witness: Well, I will say that I didn't testify about it completely and full.

Mr. Gavin: Just a minute.

If Your Honor please, he was going to explain an answer. [fol. 461] I think he was going to offer something in explanation to Mr. Smith's question, and Mr. Smith cut him off and I want to—

Mr. Smith: I would desire, had no desire to cut him off.

Mr. Gavin: I want him to have the opportunity to give his answer now. He said he would like to read something. What it is, I don't know, sir.

By Mr. Gavin:

Q. Go ahead.

A. The worker must hate the capitalist class and fight them. It will mean the spilling of blood. We will have streets of blood as they had in Russia. The workers must be organized so when this revolution comes, it must not be a failure. We must expose all bad elements in our Party and get rid of them. We must expose of them in the labor movement, also.

That is all.

Mr. Gavin: No further questions.

Mr. Smith: No questions.

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[fol. 462]

IN UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 7637.

JUNIUS IRVING SCALES, Appellant,

versus

UNITED STATES OF AMERICA, Appellee.

Appeal From the United States District Court for the Middle District of North Carolina, at Greensboro.

Argued June 13, 1958.

Before Soper and Haynsworth, Circuit Judges, and Barksdale, District Judge.

Telford Taylor (McNeill Smith; Bynum M. Hunter; Richmond G. Bernhardt, Jr.; Taylor, Scoll & Simon, and Smith, Moore, Smith, Schell & Hunter on brief) for Ap-

pellant, and Victor C. Woerheide, Attorney, Department of Justice, (J. Walter Yeagley, Acting Assistant Attorney General; James E. Holshouser, United States Attorney; Harold D. Koffsky, Phillip R. Monahan, Bruce [fol. 463] J. Teris and Jerome L. Avedon, Attorneys, Department of Justice, on brief) for Appellee.

OPINION—Decided October 6, 1958

Soper, Circuit Judge:

This appeal is taken from a judgment of conviction under the membership clause of §2(a)(3) of the Smith Act of June 28, 1940, 54 Stat. 670, 671, which has been codified in the U. S. Code of Crimes and Criminal Procedure in the third paragraph of 18 U.S.C. §2385, as follows:

> "Whoever organizes or helps or attempts to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government[1] by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof—Shall be fined not more than $10,000 or imprisoned not more than ten years, or both, * * *"

The indictment charges that during the entire period from January 1946 up to the date of the filing of the indictment on November 18, 1954, the Communist Party of the United States has been a society and group of persons who teach and advocate the overthrow and destruction of the Government of the United States by force and violence as speedily as circumstances would permit; and that during the same period the defendant, Junius Irving Scales, in the Middle District of North Carolina and elsewhere, had been a mem- [fol. 464] ber of the Communist Party of the United States, well knowing that it was and is a society and group of persons who teach and advocate the overthrow and destruction

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[1] i.e., the Government of the United States or the government of any State, Territory, District or Possession thereof.

of the Government of the United States by force and violence as speedily as circumstances would permit; the defendant intending to bring about such overthrow by force and violence as speedily as circumstances would permit.

The defendant was first tried and convicted under this indictment in April 1955, and was sentenced to imprisonment for six years; and the judgment was affirmed by this Court in 227 F.2d 581. The Supreme Court of the United States granted certiorari and after argument and confession of error by the United States, under the later decision in *Jencks* v. *United States*, 353 U.S. 657, the judgment was reversed, 355 U.S. 1. At the new trial in February 1958, the jury returned a verdict of guilty and the defendant was sentenced a second time to imprisonment for six years.

The defendant's first point is a repetition of the contention, rejected by this Court on the first appeal, 227 F.2d 586-588, that the membership clause of the Smith Act is invalid on its face under the First and Fifth Amendments since it abridges freedom of speech and imputes guilt merely from association unaccompanied by unlawful conduct. It is admitted that the Supreme Court has upheld the validity of state statutes[2] which punish persons who organize or become members of a society or group formed to advocate or teach criminal anarchy; and also that in *Dennis* v. *United States*, 341 U.S. 494, the Supreme Court upheld the constitution-[fol. 465] ality of the advocacy and organization provisions of the Smith Act. But it is pointed out that in none of these cases were the defendants accused *only* of membership in the criminal organization, and that the statutes were held not to offend the First Amendment because they were designed to meet a clear and present danger to the state by prohibiting unlawful conduct in which the defendants had participated.

Specifically it is said that the *Dennis* decision was based on findings that the defendants were parties to an existing conspiracy which endangered the safety of the nation since it involved not merely the exposition of an idea but also the advocacy of unlawful action as well as personal intent on

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[2] *Gitlow* v. *New York*, 268 U.S. 652; *Burns* v. *United States*, 274 U.S. 328; *Whitney* v. *California*, 274 U.S. 357; *Fiske* v. *Kansas*, 274 U.S. 380; cf. *De Jonge* v. *Oregon*, 299 U.S. 253.

the part of the defendants to overthrow the government. Arguing that the membership clause of the Smith Act is constitutionally defective, the appellant seems to say that the clause does not require that the offender be engaged in any unlawful advocacy or party activity, either alone or in concert with other persons, but only that he be a member of the organization with knowledge of its purposes to overthrow the government by violence and hence "membership" as defined in the Act is merely the status and state of mind of a single individual and does not involve a clear and present danger to the state.

The argument is not persuasive since it fails to give proper weight either to the terms of the statute or to the *Dennis* decision in which §§(2)(a)(1) and (a)(3) and §(3) of the Act were specifically held to be constitutional, or to the decision in *United States* v. *Yates*, 354 U.S. 298, where the statute was interpreted and the *Dennis* decision was explained and approved. The terms of the membership clause are not satisfied merely by membership in a Communist group. The requirements are that the accused be a [fol. 466] member of a society or group who teach, advocate or encourage the overthrow of the Government of the United States by force or violence knowing the purposes of the society or group. In view of these provisions the Supreme Court in the *Dennis* case rejected the argument which is now presented to us in the following passage in its opinion, 341 U.S. 494, 502:

"The very language of the Smith Act negates the interpretation which petitioners would have us impose on that Act. It is directed at advocacy, not discussion. Thus, the trial judge properly charged the jury that they could not convict if they found that petitioners did 'no more than pursue peaceful studies and discussions or teaching and advocacy in the realm of ideas.' He further charged that it was not unlawful 'to conduct in an American college or university a course explaining the philosopical theories set forth in the books which have been placed in evidence.' Such a charge is in strict accord with the statutory language, and illustrates the meaning to be placed on those words. Con-

gress did not intend to eradicate the free discussion of political theories, to destroy the traditional rights of Americans to discuss and evaluate ideas without fear of governmental sanction. Rather Congress was concerned with the very kind of activity in which the evidence showed these petitioners engaged."

This view was developed and explained in *Yates* v. *United States*, 354 U.S. 298, where the Court said that it had long recognized the distinction between advocacy of abstract doctrine and advocacy directed at promoting unlawful action, and that the legislative history of the Smith Act shows beyond all question that Congress was aware of this distinc- [fol. 467] tion and hence it could not be assumed that Congress chose to disregard a constitutional danger zone so clearly marked. The Court therefore found it unnecessary to decide the issue in terms of constitutional compulsion and held that it was the purpose of Congress to prohibit the advocacy and teaching of concrete action for the forcible overthrow of the Government and not of principles divorced from action. Showing that the decision in the *Dennis* case was in harmony with this interpretation, the Court said (pages 321 and 322):

"• • • The essence of the *Dennis* holding was that indoctrination of a group in preparation for future violent action, as well as exhortation to immediate action, by advocacy found to be directed to 'action for the accomplishment' of forcible overthrow, to violence as 'a rule or principle of action,' and employing 'language of incitement,' *id.*, at 511-512, is not constitutionally protected when the group is of sufficient size and cohesiveness, is sufficiently oriented towards action, and other circumstances are such as reasonably to justify apprehension that action will occur. • • • As one of the concurring opinions in *Dennis* put it: 'Throughout our decisions there has recurred a distinction between the statement of an idea which may prompt its hearers to take unlawful action, and advocacy that such action be taken.' *Id.*, at 545. There is nothing in *Dennis* which makes that historic distinction obsolete."

The appellant seeks to distinguish these decisions from the pending case because in them the defendants were charged with *conspiracy* to violate the teaching and organization clauses of the statute, where as in the pending case the indictment charges the substantive offense of member-
[fol. 468] ship. The distinction is without significance on the issue of constitutionality. The Scales indictment charges a guilty knowledge of the illegal purposes of the organization and the specific intent on the part of the defendant to bring them about as speedily as circumstances will permit. "No one could conceive," said Chief Justice Vinson in *Dennis* v. *United States*, 341 U.S. at 501, "that it is not within the power of Congress to prohibit acts intended to overthrow the Government by force and violence." The question in any case is "whether the means [adopted by Congress] conflict with the First and Fifth Amendments to the Constitution." In that case it was expressly decided that Congress had the power as a proper means to the end to prohibit a conspiracy to overthrow the Government; and, as Judge Parker pointed out in the first appeal in this case, 227 F.2d at 587, "the membership clause of the statute is of course nothing more nor less than a statute denouncing and making criminal a conspiracy to overthrow the government by force and violence." It is too clear for argument that membership in an organization with knowledge of its purposes and an intent to make them effective is a joint rather than an individual undertaking which gathers its strength from an association or group of individuals inspired by a common purpose. The activities of such a group constitute a clear and present danger to the state and he who joins with open eyes becomes a party to all that he sees.

The appellant also renews the contention, rejected by this court on the first appeal, that the indictment under the membership clause states no punishable offense because of the provisions of §4(f) of the Internal Security Act of 1950, 64 Stat. 987, 50 U.S.C. 783(f). In §2 of this Act, 50 U.S.C. 781, Congress embodied the finding that the Communist movement in the United States is a rigidly and ruthlessly
[fol. 469] disciplined organization which seeks the overthrow of the Government of the United States by force and violence, and hence presents a clear and present danger to the existence of the United States and of free American in-

stitutions which requires the enactment of legislation de signed to prevent the accomplishment of this purpose. Ac cordingly, §4(a) of the statute, 50 U.S.C. 783, makes it a crime for any person knowingly to combine or conspire wit any other person to perform any act which would sub stantially contribute to the establishment of a totalitaria dictatorship in the United States under the domination o any foreign government, organization or individual; an §4(c) of the Act makes it unlawful for any agent of a for eign government, or any officer or member of the Com munist organization, knowingly to obtain or receive from any officer of the United States any information which shal have been classified by the President as affecting the secur ity of the United States. Sections 7 and 8 of the Act, 5 U.S.C. 786, 787, provide for compulsory registration of Communist organizations and the members thereof with the Attorney General under a criminal penalty for failure prescribed by §15 of the Act, 50 U.S.C. 794. The registration statements are required to contain the name and address of each individual who is an officer or member of the organization and in case the organization fails to register, it becomes the duty of any individual who is a member thereof to register with the Attorney General.

The legislative history of this statute shows that while it was under consideration Congress became aware that the registration provisions might be held unconstitutional as compelling self-incrimination under §4(a) of the Act making it a crime to conspire to establish a Communist organization in the United States and also as compelling self- [fol. 470] incrimination under the membership clause of the Smith Act.[3] On this account the bill was amended by the enactment of §4(f) of the statute, 50 U.S.C. 783(f), which provides that "neither the holding of office nor membership in any Communist organization by any person shall constitute per se a violation of subsection (a) or subsection (c) of this section or of any other criminal statute."

It is obvious that the provisions of the Internal Security Act which are aimed at membership in a Communist organization relate to the same subject as the membership clause

[3] S. Rep. No. 1385, 81st Cong. 2nd Sess., pp. 43-44; Cong. Rec. 13739, 13740; H. Rep. No. 3112, 81st Cong. 2nd Sess., 96 Cong. Rec. 15280.

of the Smith Act. Bearing this in mind, the defendant contends that the declaration in §4(f) of the Internal Security Act that membership in a Communist organization by any person shall not constitute per se a violation of subsection (a) of the statute, or a violation of any other criminal statute, effectively nullifies the membership clause of the Smith Act and bars a prosecution of the present case. It is said that the membership clause of the Smith Act must have been in the mind of Congress since there is no other criminal statute to which the last phrase of §4(f) could apply and, therefore, there is no ground for the prosecution of one whose only offense is membership in such an organization.

This contention was carefully considered in the opinion of Judge Parker on the first appeal in this case at 227 F.2d 589, where it was pointed out that the exemption from criminal prosecution under §4(f) is limited to membership per se and does not exempt from prosecution members of the Communist Party who hold membership in the organization with guilty knowledge of its criminal purpose to [fol. 471] bring about the violent overthrow of the Government. This becomes the more clear in the pending appeal by reason of the contention of the defendant based on the holding of the Supreme Court in the *Dennis* and *Yates* cases that mere membership in a Communist organization unaccompanied by advocacy and teaching of concrete action for the forcible overthrow of the Government is not a punishable offense within the membership clause. With these considerations in mind the meaning of the provision of §4(f) that membership in a Communist organization shall not constitute per se a violation of the Internal Security Act or any other criminal statute becomes obvious. Indeed, it is now settled that a statute forbidding mere membership in a Communist organization would violate the First Amendment. Section 4(f) of the Internal Security Act does not bar the present prosecution.

It is hardly worthwhile to discuss the contention of the defendant that the jury was unable to reach an independent and impartial verdict on the evidence because of the finding of Congress in §2 of the Internal Security Act that the Communist Party was an organization which seeks to overthrow the Government of the United States by force and violence. Every criminal statute is an expression of opinion by Con-

gress that certain conduct is meretricious and should be punished criminally. Such a statute is the Smith Act, and it would be difficult to find a juror who does not know that it was aimed primarily at the Communist organization. See *United States* v. *Lightfoot*, 228 F.2d 861, 870.

The defendant also contends that the membership clause, *as applied to the facts of this case*, is unconstitutional under the First, Fifth and Sixth Amendments. It is asserted that the evidence was not restricted, as it should have been, to the proof of concrete action by the Communist Party and [fol. 472] the defendant for the purpose of overthrowing the Government, but was allowed to range over a wide field so as to include activities in the form of free speech and free assembly protected by the First Amendment. It is also said that the defendant was not "informed of the nature and cause of the accusation" as required by the Sixth Amendment because the jury were instructed that the charge of membership in the indictment could be sustained only by proof that the defendant was an *active* member of the Party, so that a new element was introduced in the accusation which is not mentioned in the statute and is so vague that it presents no ascertainable standard of guilt; and hence the information clause of the Sixth Amendment and the due process clause of the Fifth Amendment were both violated.

We need not stop to give extended consideration to the last contention, for it is obvious that the defendant was not prejudiced by the instruction that in order to convict the jury must find that he was not only a member but an active member of the Party. This instruction was completely in harmony with the view expressed by the Supreme Court that the Smith Act contemplates not merely the advocacy of a theory of government but the advocacy of a concrete action of an unlawful character.

The other contentions obviously relate to the relevancy and sufficiency of the evidence to support the verdict and may be best considered after a statement of the evidence is set forth. It is well, however, to point out preliminarily that special duties with respect to the evidence are imposed upon the trial judge in a case of this kind. He must determine not only whether the evidence offered is relevant and is sufficient to prove the allegations of the indictment, as in the ordinary

case, but he must also determine whether the facts proved [fol. 473] constitute such a clear and present danger to the state as to overcome the prohibitions of the constitutional amendments and justify a conviction under the statute. In other words, the judge must decide, as a question of law, whether it is proper from a constitutional standpoint to apply the statute to the situation disclosed by the testimony. This was the position taken by the trial judge in the *Dennis* case, and it was approved not only in the illuminating discussion by Judge Learned Hand at 183 F.2d 215, 216, but also in the opinion of Chief Justice Vinson in the following words (341 U.S. at 513, 514, 515):

> "When facts are found that establish the violation of a statute, the protection against conviction afforded by the First Amendment is a matter of law. The doctrine that there must be a clear and present danger of a substantive evil that Congress has a right to prevent is a judicial rule to be applied as a matter of law by the courts. The guilt is established by proof of facts. Whether the First Amendment protects the activity which constitutes the violation of the statute must depend upon a judicial determination of the scope of the First Amendment applied to the circumstances of the case.
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> "The question in this case is whether the statute which the legislature has enacted may be constitutionally applied. In other words, the Court must examine judicially the application of the statute to the particular situation, to ascertain if the Constitution prohibits the conviction. We hold that the statute may be applied where there is a 'clear and present danger' of the substantive evil which the legislature had the right to pre- [fol. 474] vent. Bearing, as it does, the marks of a 'question of law,' the issue is properly one for the judge to decide."

The Evidence

With these considerations in mind we now summarize the evidence that was adduced in the district court to sup-

port the allegations of the indictment: (1) that the Communist Party of the United States was at all times from 1946 until the finding of the indictment, a society which taught and advocated the overthrow of the United States by force and violence as speedily as circumstances would permit; and (2) that the defendant during this period was a member of the Party, well knowing its purposes and intending to effectuate them. The evidence relates to both categories and that which relates to the second not only shows the personal participation and activities of the defendant but supplements the general evidence as to the character and purposes of the Party.

Five ex-Communists gave testimony as to the character of the Party, two of whom, John Lautner and Barbara Hartle, were bona fide members and three, William Garfield Cummings, Obadiah Jones and Bellarmino J. Duran, became members in order to secure information for the Federal Bureau of Investigation.

Lautner was born in Hungary in 1902 but was brought to America at the age of sixteen months and lived in Youngstown, Ohio, until he was six, when he was taken back to Hungary. He there had a public school education and one and a half years at a teachers' college. He returned to Youngstown at the age of eighteen and became a naturalized citizen of the United States in 1926. He was a member and [fol. 475] a full-time employee of the Communist Party from 1929 to 1950, excepting the period of his military service between November 1942 and May 1945. In 1950 he was accused of being a Government agent and was expelled from the Party. At that time he was a leading member of the Party, having been chairman of the New York State Review Commission since 1947 and a member of the National Review Commission, the Party's top security board, since 1948. Since he had been a loyal member of the Party he was deeply disturbed by his expulsion and got in touch with the Federal Bureau of Investigation and volunteered to cooperate with the objectives of that organization in its investigation of the Party's activities. Since his expulsion he has testified as a Government witness in seventeen Smith Act cases and in numerous hearings before different Federal boards and departments, and during this period he received $125 a week plus travel expenses.

When he joined the Party in 1939 he became a student with twenty others from different parts of the country at a national training school sponsored by the Party's Hungarian National Bureau and carried on in the City of New York. He attended another training school in 1941 with six other students, all of whom were high Party officials, and from 1931 to 1945 he was himself a teacher at various Party schools in Canada as well as in New York and Cleveland.

During the period from 1930 to 1931 he was taught, and in turn taught his own classes, that the ultimate aim of the Party was to bring about a fundamental change in the economic, social and political structure of capitalism in the United States and that this change could not be achieved peaceably but could and would come as a result of force and violence in wresting power from the capitalist class in this [fol. 476] country. Later, in 1947 and 1948, he taught Marxism-Leninism at the functionary school classes in New York, teaching substantially the same doctrine as that above described. The purpose of the course was to explain the application of the "classic" theories of Marx, Engels, Lenin and Stalin to the present day. These writings taught revolutionary principles of action, which included the acceptance of reforms obtained by legal means in order to use them as a screen for violent activities of a revolutionary character.

In July 1945, the National Convention held in New York reconstituted the Party. It was chiefly concerned with putting an end to the "revisionist" policies of Earl Browder, formerly General Secretary of the Party, which aimed at a peaceful rather than a revolutionary road to Communism in this country. In order to effectuate the change, the Party leaders conducted classes for students of various grades, which included the use of an outline of nine "lessons" each covering a specific phase of Marxism-Leninism with reference to the Communist classics. These outlines contained passages which specifically called for the use of force in overthrowing the governments of capitalist nations and taught that the liberation of the oppressed classes was impossible without violent revolution and destruction of the apparatus of state power.

When Lautner was appointed Chairman of the New York State Review Commission as a successor to J. Peters, he acquired a key job in Communist Party security. His duties included cleansing the Party of deviationist tendencies. No dissent and no deviation was allowed. At the National Convention in 1948 he acted as security chief, seeing to it that not only the press but other curious outsiders were excluded and that the whereabouts of every delegate was [fol. 477] known at all times. After the convention he was assigned the job of lining up a series of hiding places and communication points for the New York organization's underground system and finding trustworthy members in whose custody sums of money up to $20,000 could be deposited.

On cross-examination it was brought out that in 1930 Lautner married a young woman, at the direction of the Party, in order to enable her to become a naturalized citizen. She was a stranger to him at the time and he never saw her again after the ceremony. Subsequently, acting on the Party's instructions, he secured a divorce and remarried, but in 1941 he got an annulment based on the false statement that he was a practicing Catholic and the further statement that his second wife had falsely represented that she would embrace the Catholic faith.

Mrs. Hartle was born in 1908 in Evans, Washington. She was graduated from Washington State College and later engaged in various occupations including work on a magazine, department store advertising and the operation of a lending library and gift shop. She became interested in the writings of Karl Marx in 1931 and joined the Socialist Party in Spokane. There she came in contact with Communists who were recruiting Party members amongst the Socialists. She was persuaded by them to join a Communist front organization called the Friends of the Soviet Union. By 1934 she held a Communist Party membership. She became secretary of a unit of ten members, was indoctrinated in the principles of Marxism-Leninism and was given various assignments in propaganda activities and the distribution of Communist educational material. She attended a Communist school in Seattle and in 1937 became the manager of a Communist book store which circulated Com-

[fol. 478] munist literature including pamphlets and newspapers. She attended a "Stalin" school in Seattle at the expense of the Party and studied various Marxist and Stalinist texts. From then on she became more and more interested and more and more prominent in the Party and was given various positions of responsibility. She was a full-time Party worker from 1940 until 1952 and held numerous offices, including membership on both the District Board and the District Committee of the Northwest District, an area which included Washington, Oregon and Idaho. In 1945 she succeeded to the number two job in the District, that of Organizational Secretary.

Mrs. Hartle played an important part in the activities of the Party in 1945, when a marked stiffening of Party doctrine took place. She was a delegate from the Northwest District to the emergency National Convention held in New York City in July of that year. Immediately prior to the convention a letter written by Jaeques Duclos, the French Communist chief, was published in this country first in the *New York World-Telegram* and later in various Party publications. It became the subject of anxious discussion in Party circles and the principles which it espoused were adopted. The substance of the letter was that, under the leadership of Earl Browder, the Communist Party of the United States had revised and departed from the doctrines of Marxism and Leninism and had given up the class struggle and the dictatorship of the proletariat as necessary to the achievement of the aims of Communism. A resolution to this effect was offered by the Resolutions Committee, of which Mrs. Hartle was a member, and was passed by the Convention. It was concluded that the Party should not pursue the peaceful road to Marxist socialism but the revolu-
[fol. 479] tionary road to upset the capi: list system in the interest of the working class.

In April 1946, Mrs. Hartle was assigned by the Northwest District to attend the National Training School at a summer resort near New York City. She attended its sessions for a period of two months with thirty other students, all of whom were officers and functionaries of the Party. The school was under the direction of one Jacob Mindel. It was part of a re-education program the purpose of which

was to train theoreticians and propagandists and to dispose of and to destroy the last remnant of "revisionism" of the Browder era. Emphasis was placed on the struggle between the capitalist and working class and the duty of the Communist Party to foment the class struggle by revolutionary tactics. The general aim was said to be a proletarian revolution to accomplish the dictatorship of the proletariat. The students were taught that a spontaneous struggle of the working class would never succeed and that in order for Marxist socialism to succeed a seizure and retention of power through a dictatorship was essential. It was taught that the United States was the foremost imperialist country in the world and was at the stage for proletarian revolution. The students were told that the members of the Communist Party must go amongst the workers and the masses and gain leadership of them by participating in their struggle. During these studies the classic texts of Marx, Engels, Lenin and other leaders were used. The students were told that the United States was a "bourgeois state" and "must be forcibly overthrown by the working class led by the Communist Party," and that the Communist Party must prepare the working classes for this seizure of power. Two examples of the revolutionary seizure of the state by force and violence were given; i.e., the Paris Commune, which [fol. 480] was described as the first attempt of the proletariat to storm the citadel of capitalism, which failed because the proletariat did not take sufficient steps to retain the power, and the 1917 Bolshevik Revolution in Russia. Mindel explained that imperialist wars could "only be ended by the civil war of the workers against their own government," with the Communist Party in the lead.

Mrs. Hartle herself used the instructions she received at this school when she later taught in the Party's training schools in the Northwest District between the years 1946 to 1950. In summarizing what she taught between 1945 and 1950, before she went underground, she said that the Party goal was the dictatorship of the proletariat which could only be obtained by forcible means and that force and violence would be used to seize control when the conditions were ripe for this event.

In 1950, Mrs. Hartle disappeared into the Party's underground apparatus at the direction of her superiors. For a little over two years she lived under an assumed name and moved frequently from one place to another in Washington and Oregon. The purpose of the underground was to conceal the identity of Party members in positions of importance so that in case leaders of the Party were arrested for violating the Smith Act or for other reasons the Party would not lack trained personnel ready and able to carry on. Mrs. Hartle welcomed the change from the strenuous work she had previously performed but began to question the importance of the work and to lose interest in effectuating the Party purposes. This marked the beginning of her break with the Party, but before this actually took place she was arrested by the FBI in September 1952, and in 1953 was indicted, tried and convicted for violating the Smith Act. [fol. 481] She was sentenced to five years imprisonment and ordered to pay a fine of $1000. She was released on bail pending appeal. During the trial she was notified by the Party that she was to be expelled for failing to follow Party discipline and for refusing to attend certain underground meetings. She agreed, however, to stand by the Party during the trial, and did so. On April 12, 1954, however, she made contact with the FBI and subsequently withdrew her appeal and was imprisoned for twenty and a half months until she was paroled on February 1, 1956. During her incarceration and subsequently, she testified before Congressional committees and for the Government in certain investigations into Communist activities and in criminal prosecutions brought under the Smith Act.

In line with this testimony was the evidence of William Garfield Cummings of Toledo, Ohio, who joined the Party at the request of the FBI in February 1944. He testified that in December 1945 he attended the Party's Mid-West Regional School at Chicago and was taught by George Siskind, the principal instructor, that the capitalist system must be overthrown and that this could be done only by force and violence. He was also taught that the United States was in the last "imperialistic" stage of capitalism and that the only solution for the working class was the

overthrow of the Government by force and violence, just as was done in the Bolshevik Revolution in Russia.

Obadiah Jones of St. Louis, Missouri, a Baptist minister and elevator operator, gave evidence as to the operation of a Communist Party training school which he attended in that city in 1947. The school was conducted under the guidance of George Siskind, the principal teacher, and Ralph Shaw, the chairman of the Party in Missouri. The students [fol. 482] were furnished with books containing the teachings of Marx, Lenin and Stalin and were taught that the only way that the Negro problem of the "Negro nation" in the Black Belt in this country could be solved was by a proletarian revolution led by the Communist Party whereby capitalism would be wiped out by violence and bloodshed. The students pledged themselves to work for the Party and to carry out the instructions of its leaders even though it meant to fight and to kill. Jones made reports of his connection with the school and the Party to the FBI and testified for the United States in Communist investigations and prosecutions.

Bellarmino Duran, a resident of Denver, Colorado, who was brought up in a household where Spanish was spoken, was educated in grade schools in Wyoming, Idaho and Colorado. In March 1951, he attended a special school in Los Angeles, California, which was established by the National Education Committee of the Communist Party of the United States and was known as the National School for Mexican Cadres. At that time he was a member of the Communist Party of the State of Colorado and was furnishing information to the FBI. The persons in charge of the school were Art Berry, District Organizer of the Party for the districts of Montana, Idaho, Colorado, Utah, New Mexico, Arizona and Texas; and Alberto Moreau from the Jefferson School in New York City. All of the students in the school spoke Spanish. At the beginning teaching was in this language and later English was used. Berry explained to the students that the school was established to enable Mexican cadres to study the theories of Marx and Lenin in relation to the liberation of the Negro, Puerto Rican and Mexican people of southwest United States. Moreau spoke in an introductory talk about the monopoly of capitalism

which had progressed into imperialism and the necessity of [fol. 483] teaching the masses that the system must be changed and that this could only be done through a proletarian revolution in which the workers in industry and agriculture would participate and in which the speaker visualized himself as carrying a gun against the capitalists. The students were taught that the proletarian revolution could not be brought about in a peaceful way but could only be accomplished by force and violence through which the state machinery of the bourgeoise, including the courts and the military establishments, would be smashed. He explained that the Communist Party would be the vanguard of the movement and after it was successful and the Party was in control the guns would be collected from the people so that they in turn might be controlled.

Duran was a member of the Party from 1948 until April 1955, when he was expelled upon the charge that he had taught force and violence in violation of the Constitution of the Communist Party. At that time he was asked to sign a note containing the false statement that the Communists did not teach the violent overthrow of the Government, but he refused to do so.

During his connection with the Communist Party he received compensation from the FBI for his services and subsequently testified in criminal prosecutions under the Smith Act and in other investigations on behalf of the Government.

Evidence as to Scales

Ralph C. Clontz, Jr. testified at length in regard to the activities of the defendant Scales, of which he had first-hand knowledge from personal association. He also testi- [fol. 484] fied as to the activities and teachings of the Communist Party in general. He was the son of a Presbyterian minister and a resident of Charlotte, North Carolina. He was educated in the local schools and graduated from Davidson College in 1947, and from the Duke University Law School in 1950. After having completed three and a half years at Davidson, he enlisted in the army in 1942. When he was discharged in 1946 he held the rank of lieutenant and worked for military intelligence in Salzburg, Aus-

tria. In 1948, having become aware of Communist activity in North and South Carolina and fearing imminent war with Russia, he offered his services to military intelligence. They sent him to the FBI and he arranged with that organization to attempt to penetrate the Communist Party and find out what was going on. The FBI accepted his proposition but warned him that he would serve without compensation, and that if he got into trouble the Government would not recognize him and come to his aid.[4]

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[4] Clontz was not paid anything by the FBI for his activities during the year 1948 but paid all of his expenses, including travel, out of his own pocket. He was at that time enrolled at the Duke University Law School, but held full-time employment as the Division Sales Manager for Carolina Motor Club with upwards of twenty field representatives, i.e., salesmen, working under him. In 1949, his activity in the Party and at the law school made it necessary to cut down his salesmen to three. Around July 1949 he began to receive reimbursement from the Government for out-of-pocket expenses such as gasoline and the cost of Communist literature and other expenses necessary to carry on his investigation. In 1948 he had received $24.95 for services and expenses. At the end of 1949 he started receiving $20.00 a month from the Government. He was then married and had one child. The first of 1950 this monthly compensation was increased to $40.00 in addition to expenses; and when the Party sent him to the Jefferson School in New York in the summer of 1950 the Government paid him the equivalent of a first lieutenant's pay for the three-weeks period. When he returned to North Carolina his monthly payment was increased to $60.00 and remained at that until he went on full-time duty as a Government agent in January 1951. Thereafter he received a net sum of $450.00 a month plus expenses. He had, in the meantime, opened a law office, but he took a "cover job" in New York as a fraudulent claims inspector with the Association of Casualty and Surety Companies while he was acting as special agent for the Government. He received $300.00 a month from the Association but turned this over to the Government. He worked for the Association during the day and as a special agent for the Government at night, at least four nights a week. Other than his wife, no one knew of his Government connection. The salary of $450.00 lasted until February 3, 1953, when he quit Government service and commenced the full-time private practice of law. His association with the Government cost him money—his expenses in New York were $100.00 a month more than he received from the Government with the result that his savings of $2500 were wiped out.

[fol. 485] Thereupon, on September 9, 1948, he wrote to the defendant Scales telling him that he was a law student and was interested in Communism. Very shortly thereafter Scales sent him a large box filled with Communist literature and a letter inviting him to call at Scales' residence in Carrboro, North Carolina. Clontz called and had dinner with Scales and his wife. After dinner a discussion about Communism took place in which one McGirt, another Communist who came in later, participated. Scales explained that he had received a lot of Communist literature from the Party headquarters in New York. A later visit took place shortly before Christmas and at this time Clontz expressed the view that he had learned from his reading that Communism was a wonderful system and if the Party would educate people, they would vote the Communist Party into control of the Government. In a vigorous and extended reply, Scales said that this was completely impossible since the Government controlled all of the media of communication and education, as well as the Army, and that Communist success could only be accomplished by a militant force like that which had brought about the Bolshevik Revolution in Russia. Scales furnished Clontz with the works of Stalin, in which it was said that the Bolshevik Revolution could serve as a model of tactics in any country and that the oppressed classes could not be liberated without a violent revo-
[fol. 486] lution and the destruction of the state. The revolutionary strategy was based on the idea that the revolution could be accomplished by bringing two classes together in common cause: first, the working class or proletariat and second, the "Negro nation" located in the thirteen Southern States. This was the repeated statement of Scales on various occasions in 1949 and 1950. At one time he said that the situation in the United States was closely analogous to the situation in Russia at the time of the Bolshevik Revolution when the Communists were in the minority in the month of July but were nevertheless victorious in seizing control of the government in the following October. Scales did not expect a revolution in the United States very soon but thought that if a depression came there would be a bloody revolution.

In December 1949, Scales suggested that Clontz become a member of the Party and Clontz agreed that Scales submit his application to the Party leaders. Around about this time Clontz was given several pieces of literature, including an outline entitled "Thirty Years of the Communist Party U.S.A.," a copy of the Constitution of the Party, a Study Course of the Communist Party, the Working Class and Industrial Concentration. The first part of 1950 Scales informed Clontz that certain Communists at the university at Chapel Hill had formed a Karl Marx Study Club and later certain representatives of the Party from New York gave lectures to the club at the university. At these lectures it was stated that the Communists believed that a revolution of the kind that had taken place in the Soviet Union was a certainty and a necessity and that things were moving fast and the revolution would certainly come before long.

Clontz became a member-at-large of the Communist Party on or about January 17, 1950. He was not given any card [fol. 487] but was given a receipt for $1.50 for initiation and the first month's dues. Thereafter Scales gave Clontz private tutoring to prepare him for work in the Party. When asked when the revolution would come, Scales expressed the view that it would not come very soon but would come in time and that his fourteen month old daughter would marry a Communist in the United States. He felt that if a depression was imminent, it would greatly accelerate the coming of the revolution. During this period Clontz met Bernard Friedland, District Organizer for the Communist Party in the Carolinas, who questioned him about his background and his beliefs. Scales furnished Clontz with a number of Communist books for study in March 1950, including the "Foundations of Leninism," the "Problems of Leninism" by Stalin, and other works. In these works were a number of passages in which it was clearly stated that it was absurd to think that the revolution could be carried out peaceably without violence. It was said that the Soviet Union would not send troops to America to help in the revolution but would furnish experienced revolutionaries as instructors and supervisors.

In June 1950, Clontz told Scales that he would like to attend the summer session of the Communist school in New

York called "The Jefferson School of Social Science." Accordingly, Scales arranged for Clontz's admission and saw to it that he was provided with a scholarship to cover his expenses. In August 1950, during the three-week course, Clontz received special instructions from one Doxey Wilkerson, an instructor of the school and a member of the Party's National Committee. Wilkerson instructed Clontz that while some Party members had hoped that the Communists could gain power by peaceful means, it was necessary to "forget all this drivel," and that there was no longer any pretense [fol. 488] that the Communists could win by the people's vote and that a violent revolution was necessary, which would come about by combining the forces of the "Negro nation" and the working class within the Communist Party. Clontz was also instructed that the Party in the South had been partly underground for a long time and that plans were being made for operation on an individual basis in secret communications from New York to the rest of the country. Clontz was instructed to remain under cover when he returned to North Carolina and maintain contact with an undercover Communist club. As part of the concealment process, an official statement had been issued by the Education Commission of the Party disowning or disclaiming certain study outlines, texts and publications. This was done to establish a technicality for Communists on trial and their attorneys to make conviction more difficult. It would not, however, hamper the Party because the instructors could fill in orally the revolutionary part.

During the period in which Clontz was being instructed in the doctrines of the Communist Party the defendant Scales was engaged in similar activity with Government witnesses Otis R. Readis and Charles Benson Childs. Readis was a native of North Carolina employed by the Western Electric Company at Winston-Salem. Childs was a resident of High Point, North Carolina, a student a High Point College (1948-1950), an employee of the Western Electric Company at Winston-Salem (1951), and later a student at the University of North Carolina. Scales arranged for each of these men to attend Communist schools. He sent Readis to the Jefferson School in New York and Childs to a Party school for outstanding Party members from the Virginia

and Carolina District which was held on a farm near Winston-Salem. Scales himself was the director of this school. [fol. 489] In both of these schools the students were instructed in the principles of the Communist Party.

It was brought out in the testimony of these North Carolina witnesses that Scales occupied an important position in the Party as the chairman of the North and South Carolina District and as such reported regularly to the National Committee on the activities of the Party in his district, and saw to it that the directives of the National Committee were carried out in that area. These included the recruiting of members into the Party and the selection of promising Party members for further education in Communist doctrines. In December 1951, according to the testimony, he disappeared into the Communist underground. The evidence showed that he was completely familiar with the "Marx-Lenin classics" and that as a leader of the Communist Party he believed in and advocated the violent overthrow of the Government at the earliest feasible opportunity.

The evidence offered on behalf of the appellant Scales is stated as follows in the brief filed on his behalf in this court:

> "The appellant did not testify. For the defense, ten witnesses were called, nine of whom knew Scales during the period that he was a member of the Communist Party, and testified in support of his character and conduct. These included two clergymen, a radio station employee, a professor at the University of North Carolina, a Greensboro businessman, a textile mill worker, the wife of a Superior Court judge, and the appellant's mother and aunt. None of them had heard the appellant advocate force and violence, and several of them testified to Scales' statements and attitudes, heard by and known to them, which were inconsistent or incompatible with any such advocacy."

[fol. 490] From the testimony of members of his family it was learned that Scales was born in Greensboro, North Carolina, in 1920. After finishing his secondary education in local schools he was an undergraduate student at the University of North Carolina and held various jobs in Greens-

boro and High Point, North Carolina. In June 1941 he was married and in December of that year, shortly after the Japanese attacked Pearl Harbor, he enlisted in the Army Air Force. He attended the Officers Candidate School but was dropped before securing a commission. He went overseas in 1945 and was discharged in February 1946. He returned to the University of North Carolina and was graduated in February 1946, after which he undertook certain graduate work in history. In the autumn of that year he made a public announcement of his membership in the Communist Party.

Taking this evidence in the light most favorable to the prosecution, which must be done if the historic function of the jury is to be recognized, it is fair to say that, contrary to the appellant's contentions, the allegations of the indictment have been sustained. There is indeed no substantial conflict in the evidence since the only testimony of the defendant's bearing on the merits of the case, i.e., the testimony of certain of his neighbors that they never heard him advocate force and violence, does not preclude the finding that he really believed in the tenets of Communism and advocated them in dealing with actual or prospective Party members. Nor does this evidence on his behalf contradict in any way the description of the Communist Party and its activities given by the witnesses for the United States.

It was clearly shown that the Communist Party "is of sufficient size and cohesiveness, is sufficiently oriented to-
[fol. 491] wards action, and other circumstances are such as reasonably to justify apprehension that action will occur." (354 U.S. at 321). It is organized and staffed on a national scale with territorial divisions presided over and directed by district leaders. It is constantly engaged in the infiltration of the working classes and in recruiting members in various parts of the country. It holds annual conventions, attended by representative leaders from the various districts and policed for security reasons to limit the attendance to loyal members, which determines the policies to be pursued and the methods to be employed by Party members. It maintains an underground apparatus in which important Party members in danger of arrest or interference disappear under assumed names in order that the Party may

not lack leadership in times of emergency. It masks its purposes by false statements when it deems it expedient to do so.

It maintains training schools for officials and for novitiates in various parts of the country, in this case there is specific reference in the testimony to schools in New York, Canada, Seattle, Chicago, St. Louis and Los Angeles; and it distributes literature to members and prospective members. The true character and aim of the organization is shown by the teaching provided at these schools, as to which there is abundant uncontradicted testimony. At all of them, without exception, the students are taught that the United States is in the grip of a capitalistic society which oppresses and exploits the workers, and that this grip cannot be broken by peaceful and democratic means but only by the destruction of the institutions of the state by force and violence in a revolution of the workers led by the Communist Party in the vanguard. This doctrine is not held up to the students as a bare theory but as a basis for concrete action which must and will be taken whenever in the future a favorable [fol. 492] opportunity presents itself. This doctrine was reaffirmed by the action taken by the Party at its National Convention in 1945 when the peaceful policies advocated by Earl Browder were condemned and repudiated and the recommendations of Duclos, the leader of French Communism, were endorsed. On these facts the jury was entirely justified in reaching the conclusion that the elaborate structure of the Communist Party was set up for unlawful revolutionary concrete action accompanied by force and violence rather than for the mere advocacy of a theory of government.

The evidence in regard to Scales himself not only reinforces the conclusion as to the character of the Communist Party but justifies his conviction of charges contained in the indictment. We do not know what influences led him to become a member of the Party, for neither the United States nor the defendant offered any evidence on this point, but we do know that he was a prominent and active member of the organization, who served as chairman of the Carolina District of the Party and was active in recruiting suitable Party members amongst the university students in North

Carolina, and that he furnished them with Communist literature and advised and instructed as to the Party doctrines and arranged for their attendance at established Communist schools where formal classes of instruction were given. He himself was director of one of these schools and in harmony with their course of instruction, as above described. He himself in his contacts with new members consistently and repeatedly preached the revolutionary doctrine that, in the interest of the proletariat, the institutions of the state must be destroyed by force and violence as soon as it was reasonably possible to do so. He was constantly in touch with the national leaders of the organization and obeyed [fol. 493] their instruction that he should go underground under an assumed name.

We reach the conclusion of law, as did the trial judge, that the evidence in regard to the activities of the Communist Party and of Scales constituted proof of advocacy of concrete action, as distinguished from the promulgation of a theory, which created a clear and present danger of substantive evil beyond the protections of the First Amendment and within the right and power of Congress to prohibit. In our opinion, this conclusion is in accord with the approval given in *Yates* v. *United States*, 354 U.S. at 321, 323-324, to the essence of the *Dennis* holding in these words:

"• • • Although the jury's verdict, interpreted in light of the trial court's instructions, did not justify the conclusion that the defendants' advocacy was directed at, or created any danger of, immediate overthrow, it did establish that the advocacy was aimed at building up a seditious group and maintaining it in readiness for action at a propitious time. In such circumstances, said Chief Justice Vinson, the Government need not hold its hand 'until the *putsch* is about to be executed, the plans have been laid and the signal is awaited. If Government is aware that a group aiming at its overthrow is attempting to indoctrinate its members and to commit them to a course whereby they will strike when the leaders feel the circumstances permit, action by the Government is required.' 341 U.S., at 509."

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"* * * Bearing in mind that *Dennis*, like all other Smith Act conspiracy cases thus far, including this one, [fol. 494] involved advocacy which had already taken place, and not advocacy still to occur, it is clear that in context the phrase just quoted referred to more than the basic agreement to advocate. 'The mere fact that [during the indictment period] petitioners' activities did not result in an attempt to overthrow the Government by force and violence is of course no answer to the fact that there was a group that was *ready to make the attempt*. The formation by petitioners of such a highly organized conspiracy, with rigidly disciplined members subject to call when the leaders, these petitioners, felt that the time had come *for action*, coupled with . . . world conditions, . . . disposes of the contention that a conspiracy to advocate, as distinguished from the advocacy itself, cannot be constitutionally restrained, because it comprises only the preparation. It is the existence of the conspiracy which creates the danger. . . . If the ingredients of the reaction are present, we cannot bind the Government to wait until the catalyst is added.' 341 U.S., at 510-511 (emphasis supplied)."

We find nothing at variance with these conclusions in the recent decisions of the Supreme Court in *Nowak* v. *United States*, 356 U.S.—and *Maisenberg* v. *United States*, 356 U.S. —. See *United States* v. *Silverman*, 2 Cir., 248 F.2d 671.

Admissibility of Evidence

It is contended that the judge erred in the admission of irrelevant evidence of an inflammatory character describing the activities of the Communist Party so that the defendant as a member of the Party was prejudiced in the eyes of the [fol. 495] jury. Three documents relating to the Korean War are singled out, which were published by the Communist Party or under its auspices. They were a publication entitled "Pre-Convention Discussion Bulletin" issued by the Communist Party of the United States; a copy of the Moscow newspaper "Trud"; and a pamphlet entitled "I Saw the Truth in Korea" by Allen Winnington, a correspondent of the *Daily Worker* in Peking. They were given to Clents

by Scales in 1950 and 1951, the first two in Washington, D. C. and the third in Durham, North Carolina. They accused the United States of launching and waging a criminal, reactionary, imperialistic war in Korea to enslave the North Korean people and deprive them of their independence. The last mentioned document described a small area in the Rangwuel Valley near Taejon, where it was said that the bodies of 7000 political prisoners were found in shallow graves who had been massacred under American supervision and in accordance with American instructions.

Motion for mistrial on the ground that the publications were calculated to inflame the passions of the jury was denied. The judge, however, cautioned the jury that they should weigh the evidence objectively and should not allow themselves to be excited or inflamed so as to impair their ability to try the case impartially as between the Government and the defendant.

In addition, the defendant complains of the admission in evidence of Communist activities relating to the existence of a Black Belt in southern United States where the Negro population was oppressed and denied the right of self-determination; and the general contention is also made that the judge should not have admitted evidence of Communist [fol. 496] doctrines and aims entirely distinct from Scales' knowledge of them.

In our opinion the evidence was properly received. That part to which the attack is chiefly directed consisted of documents handed by Scales to Clontz which were clearly intended to blacken the United States and stir up animosity against it and thus weaken its ability to defend itself should a revolution by attempted. It clearly served to corroborate the testimony in regard to Scales' activities in securing Party members and promoting the general objectives of the Party.

That part of the evidence which pertained to the activities of the Party with which he had no immediate connection was relevant, since it tended to prove the allegations of the indictment that the Communist Party of the United States was a group of persons who taught and advocated the overthrow of the Government of the United States by force and violence. That Scales had knowledge of these objectives is

shown by direct testimony as to his own teachings and activities on the Party's behalf. In respect to this contention, we said in denying the former appeal, 227 F.2d at 589:

> "* * * We think that this complaint is entirely without merit. The evidence as to the teachings carried on by the party and the documents used in the teachings was clearly competent to show the aims and purposes of the party; that which related to infiltration, subversion and the arousing of dissension had a direct bearing on the purpose to overthrow the government by force and violence when a favorable opportunity should present itself; * * *"

[fol. 497] Charge of the Court

The case was fairly submitted to the jury by the judge's charge. The jury were told that in order to convict the defendant they must find that the Communist Party teaches or advocates the overthrow of the Government of the United States by force and violence as speedily as circumstances will permit; that the defendant was a member of this Party who well knew of its teachings and purposes and that the defendant himself specifically intended to bring about such overthrow.

The jury were warned, however, that it is not criminal to hold or express the belief that the Government of the United States should be completely changed or to have such a change of government as a purpose or aim, or to express the opinion that the Government will at some time be overthrown by force and violence and that it is not criminal to criticize the Government and its policies, whether you agree or not with the truth or falsity of the criticism.

The jury were further told that it could not convict the defendant merely because he was a member of the Party no matter what its purposes and teachings are; and that teaching in the abstract what is meant by the aim to overthrow the Government by force and violence is not criminal, and that without being criminal the Communist Party could try to persuade its members to espouse the belief that the Government should be overthrown by force and violence as speedily as circumstances permit, since this is no more

than advocating an idea; but that if the Party went further and with the intent to overthrow the Government by force and violence advocated a principle of action which called on its members to take forcible and concrete action at some [fol. 498] propitious time to overthrow the Government by force and violence, and pressed that call in such a way as to incite its members to take concrete and forcible action for such overthrow, such activities were forbidden by the Smith Act; but those to whom the advocacy is addressed must be urged to do something now or in the future rather than merely to believe in something.

Summarizing this portion of the charge the Court said:

"It is not the abstract doctrine of overthrowing or destroying organized government by unlawful means which is denounced by the Smith Act, but rather the teaching and advocacy of action for the accomplishment of that purpose, by language reasonably and ordinarily calculated to incite persons to such action. Accordingly, you cannot find that the Communist Party of the United States was a society or group of persons who teach or advocate the overthrow or destruction of the Government of the United States by force and violence, unless you are satisfied beyond a reasonable doubt that the Party did in fact so teach and advocate, and did so with the intent that such teaching or advocacy be of a rule or principle of action, and by language reasonably and ordinarily calculated to incite persons to such action, all with intent to cause the overthrow or destruction of the Government of the United States by force or violence as speedily as circumstances would permit."

Finally, the jury were told that although the defendant admitted that he was a member of the Party it was not sufficient that he be simply a member. It must be more than a normal, passive, inactive or purely technical membership, [fol. 499] and that in determining whether he was an active or inactive member the jury must consider how much of his time and effort he devoted to the Party; "to be active he must have devoted all or a substantial part of his time and

efforts to the Party;" and that a specific intent on the part of the accused to bring about the overthrow of the Government as speedily as circumstances would permit was a necessary and indispensable requisite of the offense.

The Jencks Statute

The defendant also contends that he was denied a fair trial because he was not permitted to inspect the entire reports and statements made to the Federal Bureau of Investigation before the trial by Government witnesses with respect to the subject matter of their subsequent testimony. During the trial the defendant called for the production of these reports and statements so that he might inspect them. They were accordingly produced but they were first delivered to the District Judge *in camera*, who excised therefrom such portions as do not relate to the subject matter of the testimony, and then turned them over to the defendant's attorney for his use. The defendant contends that this procedure did not conform with that laid down by the Supreme Court in *Jencks* v. *United States*, 353 U.S. 657. That case involved the conviction of the president of a labor union for false swearing in an affidavit, filed pursuant to §9(h) of the National Labor Relations Act, that he was not a member of the Communist Party. The principal witnesses for the Government were two Party members in the pay of the FBI, who testified concerning the Party activities of the defendant. On cross-examination they testified that during the course of their investigation they made reports to the FBI concerning the defendant's activities. Thereupon [fol. 500] the defendant's attorney moved the Court to produce these reports for inspection and use in cross-examination. The judge denied the motion and his action was affirmed on appeal (226 F.2d 540, 553) on the ground that no preliminary foundation was laid showing inconsistency between the contents of the reports and the testimony of the witnesses.

The Supreme Court reversed, holding that the defendant was not required to lay such a foundation because a sufficient foundation was established by the testimony of the witnesses that their reports related to the events and ac-

tivities covered by their testimony. The Court said that to require the accused first to show conflict between the reports and the testimony would be to deny the accused evidence relative and material to his defense, since in the absence of an admission of conflict he would be helpless to know or discover conflict without inspecting the reports; and hence a requirement of showing conflict would be incompatible with our standards for the administration of criminal justice in the United States. The Court further held that relevancy and materiality for the purposes of production and inspection with a view to use on cross-examination are established when the reports are shown to relate to the testimony of the witness. The Court condemned the practice of producing government documents to the trial judge for his determination of relevancy and materiality without hearing the accused and held that the defense must be entitled initially to see the reports to determine what use may be made of them; only thereafter may the trial judge determine the admissibility of the reports and the method to be employed for the elimination of immaterial or irrelevant parts. Conceding that the protection of vital national interests may militate against public disclosure of documents in the Government's possession, the Court held that [fol. 501] in a criminal action the choice lies with the Government and if it elects not to comply with an order to produce relevant statements of reports of witnesses in its possession touching the subject matter of their testimony, the criminal action must be dismissed.[5]

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[5] The Court said, 353 U.S. 668:

"• • • We now hold that the petitioner was entitled to an order directing the Government to produce for inspection all reports of Matusow and Ford in its possession, written and, when orally made, as recorded by the F.B.I., touching the events and activities as to which they testified at the trial. We hold, further, that the petitioner is entitled to inspect the reports to decide whether to use them in his defense. Because only the defense is adequately equipped to determine the effective use for purpose of discrediting the Government's witness and thereby furthering the accused's defense, the defense must initially be entitled to see them to determine what use may be made of them. Justice requires no less.

"The practice of producing government documents to the trial judge for his determination of relevancy and materiality without

The procedure described in the *Jencks* case had not been generally recognized or followed in the Federal courts, nor had the practice been uniform. One accepted procedure required a showing of inconsistency between the pre-trial reports and the testimony of the witness as a basis for the production of the report. The Fifth Circuit, in its decision in the *Jencks* case, 226 F.2d 540, 552, and its earlier decision in *Shelton* v. *United States*, 205 F.2d 814, 815, found encouragement for this course in the decision of the Supreme Court in *Gordon* v. *United States*, 344 U.S. 414, 418-419, as did the First Circuit in its decision in *Scanlon* v. *United States*, 223 F.2d 382, 385-386. A different procedure was approved in the Second Circuit in the opinion of Judge Learned Hand in *United States* v. *Krulewitch*, 145 F.2d [fol. 502] 76, 78-79. This practice did not compel the defense to lay a preliminary foundation of inconsistency but required the delivery of the reports to the judge, if requested by the defendant, as soon as it appeared that they had been made by the witness and related to the subject matter of his testimony. It then became the duty of the judge to examine the statements *in camera* and if he should find something in them contradictory to the testimony of the witness, they were then delivered to the defendant for such use as he might desire.[6] It will be observed that in both of these procedures a showing of inconsistency had to be made, but the latter practice was the more helpful to the defendant since it relieved him of the difficulty of showing inconsistency in the reports before they were produced for examination.

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hearing the accused, is disapproved. Relevancy and materiality for the purposes of production and inspection, with a view to use on cross-examination, are established when the reports are shown to relate to the testimony of the witness. Only after inspection of the reports by the accused, must the trial judge determine admissibility—e.g., evidentiary questions of inconsistency, materiality and relevancy—of the contents and the method to be employed for the elimination of parts immaterial or irrelevant. See Gordon v. United States, 344 U.S. at 418."

[6] See also *United States* v. *Cohn*, 2 Cir., 145 F.2d 82, 92; *United States* v. *Ebeling*, 2 Cir., 146 F.2d 254, 256; *United States* v. *Lebron*, 222 F.2d 531; *Boehm* v. *United States*, 8 Cir., 123 F.2d 791, 807-808.

The *Jencks* decision gave rise to much discussion in legal circles[7] and very quickly led to the passage of the Act of Congress of September 2, 1957, 71 Stat. 595, whereby Chapter 223 of 18 U.S.C., entitled "Witnesses and Evidence," was amended by adding a new section 3500. The purpose of this statute, as shown by the Legislative History set out in 2 U.S. Code, Congressional and Administrative News, 85th Congress, First Session, 1957, page 1861 et seq., was to provide an exclusive procedure for handling demands for the production of statements and reports of witnesses in court so as to preserve the rights of defendants and at the same time to protect confidential information in the possession of the Government. An additional purpose was to correct what seemed to Congress to be a widespread misinterpretation [fol. 503] and popular misunderstanding of the opinion in the *Jencks* case, as shown by decisions referred to in the Legislative History, pages 1864-1868, which had led to the unnecessary disclosure of irrelevant government reports and interfered with the prosecution of criminal cases by the United States.

The new Act[8] provides in substance that no statement or report in the possession of the United States which was

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[7] 46 Georgetown L.J. 180, note; 67 Yale L.J. 674.

[8] 18 U.S.C. § 3500.

"§3500. Demands for production of statements and reports of witnesses

"(a) In any criminal prosecution brought by the United States, no statement or report in the possession of the United States which was made by a Government witness or prospective Government witness (other than the defendant) to an agent of the Government shall be the subject of subpena, discovery, or inspection until said witness has testified on direct examination in the trial of the case.

"(b) After a witness called by the United States has testified on direct examination, the court shall, on motion of the defendant, order the United States to produce any statement (as hereinafter defined) of the witness in the possession of the United States which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.

"(c) If the United States claims that any statement ordered to be produced under this section contains matter which does not

made by a Government witness to an agent of the Government shall be the subject of discovery or inspection until the witness has testified on direct examination in the trial of the case; and that after he has testified the court, on motion of the defendant, shall order the United States to produce any statement of the witness in its possession which relates [fol. 504] to the subject matter of his testimony. If the United States claims that any such statement contains

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relate to the subject matter of the testimony of the witness, the court shall order the United States to deliver such statement for the inspection of the court *in camera*. Upon such delivery the court shall excise the portions of such statement which do not relate to the subject matter of the testimony of the witness. With such material excised, the court shall then direct delivery of such statement to the defendant for his use. If, pursuant to such procedure, any portion of such statement is withheld from the defendant and the defendant objects to such withholding, and the trial is continued to an adjudication of the guilt of the defendant, the entire text of such statement shall be preserved by the United States and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant pursuant to this section, the court in its discretion, upon application of said defendant, may recess proceedings in the trial for such time as it may determine to be reasonably required for the examination of such statement by said defendant and his preparation for its use in the trial.

"(d) If the United States elects not to comply with an order of the court under paragraph (b) or (c) hereof to deliver to the defendant any such statement, or such portion thereof as the court may direct, the court shall strike from the record the testimony of the witness, and the trial shall proceed unless the court in its discretion shall determine that the interests of justice require that a mistrial be declared.

"(e) The term 'statement', as used in subsections (b), (c), and (d) of this section in relation to any witness called by the United States, means—

(1) a written statement made by said witness and signed or otherwise adopted or approved by him; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement. Added Pub. L. 85-269, Sept. 2, 1957, 71 Stat. 595."

matter which does no (sic) relate to the subject matter of the testimony, the court is required to order the United States to deliver the statement for the inspection of the court *in camera*, and thereupon the court is required to excise the irrelevant portions and to deliver the balance of the statement to the defendant for his use. If in such case the defendant is convicted, the entire text of the statement must be preserved by the United States and, in the event of an appeal, must be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. If the United States elects not to comply with an order of the court to deliver any such statement to the defendant, the court is required to strike the testimony of the witness from the record and proceed with the trial, [fol. 505] unless the court in its discretion determines that the interest of justice requires that a mistrial be declared.

The second trial of the pending case, now before us on appeal, took place after this statute was passed and the judge complied with its provisions when the defendant demanded the production of the reports of the Government witnesses for his inspection. The Government delivered the entire reports to the judge with the request that certain portions indicated therein should be excised by the judge *in camera* on the ground that they did not relate to the testimony of the witnesses. The judge complied with this request, examining all the reports and excising such portions as in his opinion did not relate to the testimony, and thereupon delivered the balance of the reports to the defendant. The defendant concedes that the judge complied with the statute but contends that the Act is unconstitutional since it did not fully comply with the requirements of due process laid down in the *Jencks* decision.

Through some misunderstanding as to the defendant's wishes the original unexcised reports of the Government witnesses were not sent to this court with the record on appeal but at the defendant's request the Government has now made them available to this court, as required by the statute, and they are now in our possession. We have examined them to determine the correctness of the rulings of the trial judge and we concur in his finding that the excised portions of the reports did not relate to the subject matter of the

testimony of the witnesses. It remains to pass on the contention of the defendant that the new Act is unconstitutional.

In our opinion the *Jencks* decision does not require this conclusion and we hold the Act to be valid. It must be borne [fol. 506] in mind in the first place that the position of the Government in the pending case is not the same as it was in *Jencks*, so that the Supreme Court has not yet passed on the specific question now before this court. In *Jencks* the Government objected to the production of any part of the reports on the ground that inconsistency with the testimony had not been shown, and the court sustained the objection. It was this ruling that the Supreme Court passed upon, holding that the entire reports should be produced for the inspection of the defendant's attorney so that he might offer the whole or such parts of them in evidence as he thought wise, whereupon it would become the duty of the trial judge to decide whether the reports should be admitted or certain parts thereof eliminated as immaterial or irrelevant. In other words, the Court did not pass upon the question, which arises under subsection (c) of the new statute, of what is to be done when the United States claims that a particular statement ordered to be produced contains some matter which does not relate to the subject matter of the testimony. In any event, it is our opinion that this statutory provision, whether it be regarded as an addition to or a change in the *Jencks* procedure, does not amount to a denial of the due process required by the Fifth Amendment but is merely a procedural regulation which preserves certain substantial rights of the accused and at the same time protects the Government files from the danger of unnecessary disclosure of its sources of information.

Most significant is the fact that the new statutory procedure does not deny the defendant access to any information which would be helpful to his case. Production of the reports for inspection does not depend upon the permission of Government custodians or the attorneys for the prosecution; and the determination of what portions of the re- [fol. 507] ports should be excised is not left to the Government but is entrusted to the impartial and experienced judgment not only of the trial judge but also the judges of

the appellate courts and the Justices of the Supreme Court themselves, if in their discretion they determine to review the case. The standard set by *Jencks*, 353 U.S. at 669, that justice re-requires (sic) no less than that the defense be entitled to see the reports to determine what use may be made of them is satisfied; and justice requires no more.

The defense is denied only the opportunity to be heard on the question whether the excised portions of the reports bear on the testimony of the witnesses; and this does not amount to a denial of due process. It does not interfere with any constitutional right to which the defendant is entitled but merely restricts his examination of the Government files which he desires to make, not because he has any reason to believe that they will yield anything helpful to his case but on the chance, which costs him nothing, that something will be turned up that will weaken the prosecution. In this situation it is clearly within the province of Congress to protect the right of the United States to withhold facts which it has gathered and to shield the sources of its information in the public interest so long as no pertinent information is withheld from the defendant. This can be done only by entrusting the determination of relevancy to someone other than the parties to the cause, and the method devised by Congress is obviously fair both to the Government and to the defendant and represents a reasonable exercise of Congressional power. In the *Jencks* decision the Supreme Court was not dealing with constitutional questions. It was exercising what is described in *McNabb* v. *United States*, 318 U.S. 332, 440, 441, "its supervisory authority over the administration of criminal justice in the United States * * * [to] by the establishment of civilized standards of procedure and evidence"; and Congress, by the passage of the interstitial legislation contained in §3500 was merely exercising its concurrent power in the same field to provide for a case that the Court did not envisage.

The conclusion that the provisions of the new statute were not violative of the constitutional rights of the defendant is supported by the decision of the Second Circuit in *United States* v. *Gandia, et al.*, decided May 15, 1958, 255 F.2d 454, where it was held that the defendants were not entitled to have their convictions vacated under 28 U.S.C. 2255

merely because the trial judge, having inspected the reports made by a Government witness and finding them not to be inconsistent with the witnesses testimony, denied the defense access to them. The court said that in the *Jencks* case the Supreme Court did not hold that constitutional considerations entitled defendants access to witnesses' reports but announced only an evidentiary rule to be followed in the trial of criminal cases in the United States courts. See also *United States* v. *Angelet*, 255 F.2d 383; *United States* v. *Spangelet*, 2 Cir., 27 L.W. 2063; *United States* v. *Procter & Gamble Co.*, 356 U.S. 672; *United States* v. *Consolidated Launderies* (sic) *Corp.*, S.D., N.Y., 159 Fed. Supp. 860.

Impaneling of Grand Jury

Finally, the defendant makes the contention that the indictment is invalid because the grand jury was illegally impaneled. The method of selecting jurors was that the Deputy Clerk of the District Court and the Jury Commissioner sent out a number of form letters to reputable citizens requesting them to furnish a list of persons available for jury duty. The letters were sent, amongst others, to superintendents of [fol. 509] public schools, bank presidents, sheriffs, and the chairmen of the Republican and Democratic Parties in the counties in the district. In response the court officials received a list of names and addresses from which they eliminated those persons whom they deemed unfit on the basis of personal knowledge and those who appeared from the inspection of the list to be unsuitable. For example, those listed as physicians were stricken. The names were then placed in the jury box and when the time came to select the jury for a term of court the names of fifty-six persons were drawn at random from the box and summoned for jury service. The reverse side of the summons contained a questionnaire covering the qualifications of the jurors and when the returns came in they were checked to ascertain whether the persons summoned were qualified under the jury statute 18 U.S.C. §1861. When the prospective jurors appeared in answer to the summons, the names of fifty-six qualified persons were put in a hat from which nineteen were drawn by lot and they became the grand jury, the rest forming the

petit jury panel. The jurors were then questioned by the judge as to their payment of taxes for the previous two years and any litigation pending before the court, and whether they had any reason to be excused. A grand jury selected in this manner found the indictment on which the pending case was tried.

It does not appear from the evidence that any qualified person or class of persons was excluded from jury service or that any disqualified person served on the grand jury chosen in this case or that the defendant was in any way prejudiced by the procedure. It is, nevertheless, contended that the grand jury was illegally impaneled, since the panel did not consist of persons whose names were "publicly drawn from a box containing the names of not less than [fol. 510] three hundred qualified persons at the time of each drawing." It is said that the jury officials did not comply with the statute because they did not make sufficient investigation of the persons on the list before their names were put in the box and hence the prosecution must fail even though the defendant was not prejudiced, since the injury in such case affects the jury system and the community at large. See *Ballard* v. *United States*, 329 U.S. 187, 195; *Dow* v. *Carnegie-Illinois Steel Corp.*, 224 F.2d 414; *United States* v. *Dennis*, 2 Cir., 183 F.2d 201; *Walker* v. *United States*, 8 Cir., 93 F.2d 383; *Dunn* v. *United States*, 6 Cir., 238 F.2d 968; *United States* v. *Silverman*, D.Conn., 129 F.Supp. 496. A motion to dismiss the indictment on this ground was filed but it was denied by the judge who held that the selection of the grand jury did not involve any substantial deviation from the requirements of the statute and that in any event the defect had been waived by the failure of the defendant to raise the point within a reasonable time.

We think that the motion to dismiss was properly denied. It clearly appears that the defendant not only suffered no prejudice but that he waived the point by failing to comply with the provisions of Rule 12 of the Federal Rules of Criminal Procedure. Section (b)(2) of the rule provides that defenses and objections based on defects in the institution of the prosecution or in the indictment may be raised only by motion before trial and that the motion shall include all such defenses and objections then available to the defendant

and that the failure so to act constitutes a waiver thereof, although the court, for cause shown, may grant relief from waiver. The rule further provides that the motion shall be made before the plea is entered but the court may permit it to be made within a reasonable time thereafter. The de- [fol. 511] fendant did not comply with the provisions of this rule, as is shown by the following recital of facts.

He was indicted on November 18 and arraigned on December 7, 1954. At that time he declined court appointed counsel, secured a reduction in bail and a delay of the arraignment for one week to enable him to secure counsel of his own choosing. This period was subsequently extended to December 16. By that time the defendant had not secured an attorney and the court appointed counsel for the purposes of arraignment only. The defendant pleaded "not guilty," but notified the court that he reserved the right to make certain pre-trial motions, and the court granted a further delay until January 14, 1955. The defendant expressed complete satisfaction with the counsel who represented him on December 16.

On January 14, the defendant appeared with a New York attorney and requested an additional sixty days for the filing of motions and secured an order of the court permitting him to file such motions by February 18, with the right of the Government to reply on March 2, and a hearing of the motions on March 8. These dates were satisfactory to the defendant's attorney. On February 18, eight motions were filed but none of them attacked the grand jury. The hearing took place on March 8, at which the defendant was represented by a Washington attorney. By order of March 1 these motions were denied.

Subsequently, on March 15, the defendant filed the motion attacking the grand jury now under consideration. Evidence as to the method of selecting the jury was taken, a hearing was had and on April 15, as we have seen, the motion was denied. This ruling was entirely justified under [fol. 512] the terms of Rule 12, as interpreted by the authorities. The information on which the motion was based was at all times available to the defendant and yet he failed to take action despite liberal extensions of time. See *United States* v. *Silverman*, 129 F.Supp. 496, 513; *Nations* v. *United*

States, 8 Cir., 52 F.2d 97, 99; *Agnew* v. *United States*, 165 U.S. 36, 44; *United States* v. *Thompson*, 2 Cir., 144 F.2d 604; *Wright* v. *United States*, 8 Cir., 165 F.2d 405; *Notes of Advisory Committee*, fol. Rule 12, F.R. Crim. Pro., 18 U.S.C., p. 206.

Accordingly, the judgment of the District Court is

Affirmed.

[fol. 514]

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 7637

JUNIUS IRVING SCALES, Appellant,

vs.

UNITED STATES OF AMERICA, Appellee.

JUDGMENT—October 6, 1958

Appeal from the United States District Court
for the Middle District of North Carolina.

This Cause came on to be heard on the record from the ...ited States District Court for the Middle District of ...rth Carolina, and was argued by counsel.

On Consideration Whereof, It is now here ordered and ...judged by this Court that the judgment of the said Dis... Court appealed from, in this cause, be, and the same ...hereby, affirmed.

...ber 6, 1958.

Morris A. Soper, United States Circuit Judge.

...516] Clerk's Certificate to foregoing transcript omit... in printing.

[fol. 517]

SUPREME COURT OF THE UNITED STATES

No. 488, October Term, 1958

JUNIUS IRVING SCALES, Petitioner,

vs.

UNITED STATES OF AMERICA

ORDER ALLOWING CERTIORARI—December 15, 1958

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fourth Circuit is granted and the case is assigned for argument immediately following No. 491.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Frankfurter took no part in the consideration or decision of this application.

No. 488. Junius Irving Scales, petitioner, *v.* United States of America.

It is ordered that this case be set for reargument at the 1959 Term to be heard on Thursday, November 19, 1959. Counsel are requested to address themselves to the following questions among others:

"(1) Is the Membership Clause of the Smith Act, 18 U.S.C. § 2385, valid under the Constitution of the United States if it be interpreted to permit a conviction based only on proof that the accused was a member of a society, group or assembly of persons described in the Act knowing the purposes thereof?

"(2) If not, is the Membership Clause constitutionally valid if interpreted as also requiring proof that the membership was accompanied by a specific intent of the accused to accomplish those purposes as speedily as circumstances would permit? Does the Smith Act permissibly bear such an interpretation?

"(3) If the Membership Clause would not be constitutionally valid as interpreted under (1) or (2), would the clause be constitutionally valid if interpreted as requiring as an element of the crime proof that the accused was an 'active' member? Does the Smith Act permissibly bear such an interpretation? If not, and if the clause be valid without such element, does a constitutional application of the Membership Clause depend upon any such requirement, and if so was such a requirement properly applied by the courts in this case?

"(4) Whether the 'clear and present danger' doctrine, as interpreted by counsel, has application to the Membership Clause, either with respect to the accused or with respect to the 'society, group, or assembly of persons' described in the statute. If applicable, whether such doctrine was or can now be, properly applied in this case.

"(5) Is § 4(f) of the Internal Security Act, 50 USCA 780, a bar to the present prosecution? Counsel are requested to discuss the relevance of the registration provisions of that Act to this question."

Two hours are allotted to each side for oral argument.

Mr. Justice Clark:

There are some 13 indictments now pending in the courts awaiting our disposition of this case, and one being held here on petition for certiorari.[1] Involved is the validity of the clause in the Smith Act having to do with membership in the Communist Party.

The case first came here over three years ago. Certiorari was originally granted on March 26, 1956, 350 U.S. 992. After oral argument, the case was restored to the docket and ordered to be reargued, 353 U.S. 979. Prior to reargument, the Solicitor General filed a memorandum suggesting remand for a new trial under our intervening ruling in *Jencks* v. *United States*, 353 U.S. 657. This was done,

[1] Isaacs v. *United States*, No. 564 Misc., this Term.

355 U.S. 1. After affirmance of a second conviction, we again granted certiorari, 358 U.S. 917, and on April 29, 1959, heard oral argument for the second time.

The Court poses some questions ostensibly for the guidance of counsel at the third argument. None involves the "*Jencks question*," so there must be no doubt in the Court's mind on that issue. In fact all of the questions posed have been fairly covered by the two arguments already made by capable counsel. All the reargument does is cause inordinate delay. The case is as ready for disposition now as it will ever be, and we should not adjourn until it is handed down.

Much has been said of late of the law's delay, and criticism has been heaped on the courts for it. This case affords a likely Exhibit A. It looks as if Scales' case, like *Jarndyce* v. *Jarndyce*,[1] will go on forever, only for the petitioner to reach his remedy, as did Richard Carstone there, through disposition by the Lord.